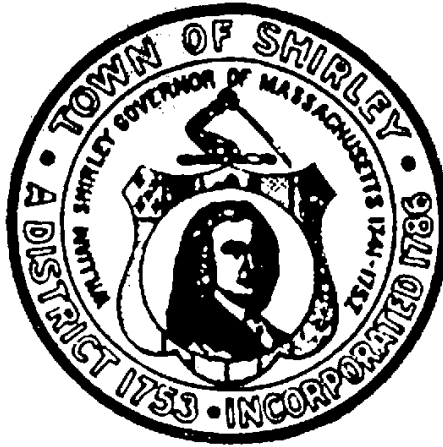


Town of Shirley, Massachusetts



General Town By-Laws as Amended

**Includes all general town bylaws as previously approved
by the Attorney General's Office**

Revision date: August 4, 2021

General Town Bylaws Index

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ARTICLE I
TOWN MEETINGS

- Section 1 The Annual Town Meeting shall commence no earlier than the last day in March and no later than the last day of May. The Select Board members shall fix the time and place for the meeting. [Amended Feb 19, 1974 STM; Nov 10, 2014 STM, Art. 12]
- Section 2 The Annual Town Election shall fall on the first Tuesday in May. [Amended Nov 10, 2014 STM, Article 12]
- Section 3 RESERVED [Amended Dec 12, 1973 STM; Feb 19, 1974 STM; June 14, 1982 ATM; and May 18, 1985 ATM; Removed Nov 10, 2014 STM, Art. 12]]
- Section 4 Notice of every annual town meeting shall be given by posting attested copies of the warrant therefor in at least one public place in Shirley Center and at least one public place in Shirley Village not less than seven days before the day fixed for such meeting. [Amended Nov 10, 2014 STM, Art. 12]
- Section 5 The Annual Town Reports will be available to residents at the Annual Town Election and at the Annual Town Meeting, or they may be picked up at the Town Clerk's Office. [Amended May 14, 1983 ATM]
- Section 6 Notice of every Special Town Meeting shall be given by posting attested copies of the warrant for said Special Town Meeting in at least one public place in Shirley Center and at least one public place in Shirley Village not less than fourteen days before the day fixed for such meeting. [Amended May 14, 1983 ATM; Nov 10, 2014 STM, Art. 12]
- Section 7 Except as otherwise required by law, compliance with the preceding sections shall not be a requisite of valid notice of any town meeting, and non-compliance with said sections shall not affect the validity of any meeting or any action taken there at.
- Section 8 Attendance at town meeting shall be limited to registered voters of that town except that other persons may be admitted to a separate section reserved for non-voters as determined by the Moderator.
- Section 9 The Moderator shall preside, regulate the proceedings, decide all questions of order and make public declaration of all votes.
- Section 10 Articles of the warrant shall be acted upon in the order in which they appear unless otherwise determined by a two-thirds vote of the meeting.
- Section 11 All motions other than parliamentary motions shall be presented in writing.

- Section 12 If a motion is susceptible to division, it shall be divided and the question shall be put separately upon each part thereof, upon approval of town meeting by majority vote. [Amended Nov 10, 2014 STM, Art. 12]
- Section 13 When a question is before the meeting, the following motions, to wit; to lay on the table; for the previous question; to postpone to a time certain; to commit, recommit, or refer; to amend; to postpone indefinitely; shall be received and shall have precedence in the foregoing order; and the first two shall be decided without debate.
- Section 14 On proposed amendments involving expenditures of money, the larger or largest amount shall be put to the question first, and an affirmative vote thereon shall be a negative vote on any smaller amount.
- Section 15 Any person who is employed as an attorney by another interested in any matter under discussion at a Town Meeting shall disclose the fact of his employment before speaking thereon. (For penalty see Section 3 of Article XII)
- Section 16 RESERVED [Removed Nov 10, 2014 STM, Art. 12]
- Section 17 No motion the effect of which be to dissolve the meeting shall be in order until every article in the warrant therefor has been duly considered and acted upon, but this shall not preclude the postponement of consideration of any article to an adjournment of the meeting at a stated time and place.
- Section 18 On questions requiring a simple majority vote or a two-thirds vote, a raise-of-hands vote shall be sufficient; and should the Moderator determine the statutory vote requirements have been achieved, he/she may dispense with a count and simply declare the results of the vote. On questions requiring a different majority, such as a four-fifths, or nine-tenths vote, the Moderator shall verify said count by a raise of hand, provided, that if the vote is unanimous, a count need not be taken. If any vote declared by the Moderator is immediately questioned by seven or more voters, the Moderator shall verify said count by a raise of hand, a standing vote, or a ballot vote. [Amended September 29, 2008 STM]
- Section 19 No person shall speak more than three times upon any question unless leave of the Moderator is first obtained.
- Section 20 The reporting year for the Annual Town Report shall be the Fiscal Year of the Town, from July 1st of each calendar year through June 30th of the following calendar year. [Added May 23, 2001 ATM]

[Adopted at October 10, 1970 STM, Article 1; revisions as noted above]

ARTICLE II

FINANCE COMMITTEE

Section 1 There shall be a Finance Committee consisting of seven members appointed by the Moderator. All of the members shall be registered voters of the Town of Shirley. The members shall each serve for a three-year term, so arranged by the Moderator that two or three terms shall expire at the end of each year.

In addition, the Town Accountant, as Budget Officer of the Town, shall be an ex-officio non-voting member of the Finance Committee.

Except as approved by the Select Board members, no one holding an elective office, no employee of the Town, and no appointed officer receiving a salary, other than the Town Accountant, shall be eligible to be appointed to said Committee.

[Amended March 22, 1993 STM; Sept 26, 1994 STM; Dec 1, 1998 STM; May 23, 2001 ATM; and March 10, 2003 STM]

Section 2 The Select Board shall issue to comply with the Commonwealth of Massachusetts State Building Code, a prescribed fee schedule. All fees collected within the Town of Shirley, shall be paid into the Treasury of the Town. [Revised June 5, 1975 ATM]

Section 3 The Moderator shall fill any vacancy which may occur in the membership of the committee. Notice of the appointment shall be sent by the Moderator to the Town Clerk for the records. If any appointed member is absent from three consecutive meetings of the committee except in case of illness, his or her position shall be deemed vacant by the chairman and upon written notification to the Moderator a successor shall be appointed to fill the vacancy.

Section 4 All articles relating to financial matters in the warrant for a town meeting shall be referred to the Finance Committee for its consideration. Said committee shall after due consideration of the subject matter of all articles, make a report to the meeting of its findings with recommendations relative to financial matters and the conduct of town business. The Committee's annual report shall contain expenditures in previous years and estimated requirements for the ensuing year of the several boards, officers and committees of the town, and prepared by them in such a form and detail as may be prescribed by said committee. The committee shall add to such statement of expenditures and estimates, another column giving the amounts which in its opinion should be appropriated for the ensuing year and add explanations where necessary. The entire report may be contained in the Annual Town Report following the warrant for the ensuing year or may be published separately, but in either case, the Select Board shall make copies of the Warrant containing the recommendations of the Finance Committee available at the Municipal Building and Hazen Memorial Library in Shirley Village and at the Center Town Hall in Shirley Center in advance

of the day fixed for the Annual Town Meeting, as well as at the meeting itself. All articles in the warrant for the coming year that are not approved by the Finance Committee must be footnoted and explained during the discussion period of the Article. [Amended May 15, 1978 ATM; and May 16, 1994 ATM]

Section 4.1 In addition, and pursuant to Mass General Laws, Part I, Title VII, Chapter 39, Section 16, the Finance Committee shall consider any or all municipal questions for the purpose of making reports or recommendations to the town.

Section 5 The Finance Committee has full control of the Reserve Fund and how it is to be disbursed. To aid the committee in the discharge of their duty, there shall be made available to them, books of record and accounts, bills and vouchers on which money has been or may be paid from the Town Treasury.

[Adopted at October 10, 1970 STM, Article 1; Revisions as noted above.]
(Section 4.1 added May 10, 2021 ATM and approved by AG August 4, 2021)

ARTICLE III **FINANCIAL AFFAIRS**

Establishment; Purpose: [Added June 2, 2014 ATM, Art. 13]

There shall be in the Town of Shirley a set of financial affairs bylaws intended to encourage standardized and transparent financial and accounting practices, in keeping with Massachusetts General Laws and applicable accounting standards.

Applicability: [Added June 2, 2014 ATM, Art. 13]

The provisions of this Chapter shall apply to the Town's financial affairs as addressed herein.

Compliance:

Section 1 The Town Treasurer shall pay no money from the Treasury, except upon a warrant or order therefore signed by the majority of the Select Board members, except as otherwise provided by law.

Section 2 Each officer, board or committee authorized to spend money shall, on or before June twentieth of the year, transmit to the Select Board members all unpaid bills outstanding as of that date. Books of the Town shall be closed as of the thirtieth of June of each year. [Amended May 18, 1981 ATM, Art. 22]

Section 3 Every officer shall pay into the treasury of the Town all amounts received by him on behalf of the Town except as otherwise provided by law and shall make a true return thereof to the Select Board members stating the accounts upon which such amounts were received.

- Section 4 The Select Board members shall prescribe the methods of accounting and the forms to be used by the several officers, boards, committees of the Town pertaining to their receipts and disbursements, and shall provide that such methods and forms shall conform to the requirements prescribed by law or any rules or regulations made there under.
- Section 5 Except as otherwise provided by law, the Treasurer shall have custody of deeds, bonds, contracts, insurance policies, and other similar documents owned by the Town, except that the bonds given by the Treasurer and the Collector of Taxes to the Town shall be in custody of the Select Board members.
- Section 6 No officer of the Town shall in his official capacity make or pass upon or participate in making or passing upon, any sale, contract or agreement or the terms or amount of any payment in which the Town is interested and in which such officer has any personal interest, direct or indirect.
- Section 7 No contract involving an obligation of the Town in excess of \$500.00 shall be binding upon the Town unless it is in writing and is signed by at least a majority of the board or committee duly authorized or having control of the appropriation against which such obligation is incurred; and such board or committee shall make a record of every such contract in a book which shall be the property of the Town. [Amended May 18, 1981 ATM, Art. 18]
- Section 8 The procurement of supplies and services, and the acquisition and disposition of real property shall be undertaken in conformity with the provisions of Massachusetts General Laws Chapter 30B as it may, from time to time, be amended, including but not limited to the use of sound business practices, solicitation of quotations, and competitive sealed bids or proposals, all as specified in detail in said Chapter 30B. All other contracts shall be in conformity with applicable general laws, including but not limited to Massachusetts General Laws Chapter 30, Section 39M, Chapter 149, and Chapter 149A. [Revised June 2, 2014 ATM, Art. 13]
- Section 9 RESERVED [Deleted June 2, 2014 ATM, Art. 13]
- Section 10 RESERVED [Deleted June 2, 2014 ATM, Art. 13]
- Section 11 [DELETED May 16, 1994 ATM, Art. 22]
- Section 12 Any person or persons presenting any matter to the Planning Board, Conservation Commission, Board of Health, or any other board of the Town, or the Building or Zoning Inspector, which requires the Town to incur expense for compliance with the Zoning By-Law, Town By-Laws, State Statutes, and Federal Statutes, shall reimburse the Town for such expenses. [Added May 18, 1976 ATM, Art. 48]
- Section 13 Payment of Taxes or Assessments [Added Oct 18, 1993 STM, Art. 1]

Section 13.1 The Tax Collector shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfer, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

Section 13.2 The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers held by any party whose name appears on said list furnished to the licensing authority by the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector, provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit held by any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. [Revised June 2, 2014 ATM, Art. 13]

Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purpose of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority received a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments, or other municipal charges, payable to the municipality as of the date of issuance of said certificate.

Section 13.3 Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder shall be given notice and a hearing as required by applicable provisions of law.

Section 13.4 The Licensing Authority may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section One of Chapter 268 of the General Laws, in the business or activity conducted in or on said property.

This section shall not apply to the following licenses or permits: open burning, bicycle permits, sale of articles for charitable purposes, children work permits, clubs and associations dispensing food or beverage licenses, dog, fishing, hunting and trapping licenses, marriage licenses and theatrical event and public exhibition permits.

Section 14 Authorization to Dispose of Equipment [Added June 5, 1995 ATM, Art. 11]

1. A Board, Commission, Committee, Officer, or Department Head of the Town, with the written approval of the Select Board, may trade or sell at auction, by open or sealed bid, equipment that has been used by the Department and has a current estimated value of less than \$10,000.

2. Such auction shall be advertised at the expense of the Department at least two weeks in advance in the newspaper having general circulation in the Town.

Section 15 Pursuant to Massachusetts General Law Chapter 40 Section 21E, all municipal charges and bills are due thirty (30) days from the billing date. Any charge or bill outstanding after the due date shall be assessed interest and penalty on the delinquent amount from the billing date until such charge is paid in full in an amount equal to the interest and penalty permitted to be charged per Massachusetts General Law, Chapter 59, Section 57. [Added June 2, 2014 ATM, Art. 13]

[Adopted at October 10, 1970 STM, Article 1; Revisions as noted above.]

ARTICLE IV
SELECT BOARD AND LEGAL AFFAIRS

Section 1 Select Board. For the purposes of this Bylaw and otherwise, the chief executive of the Town of Shirley shall be referred to as the "Select Board" and members of the Board shall be referred to as "Select Board Members". The Select Board shall have all the powers and duties of a "Select Board" as defined under clauses Third A and Fifth B of section 4 of Chapter 7 of the General Laws, and in any other general, special or local law or regulation.

Section 2 Legal Affairs. The Select Board members may appoint a member of the bar in good standing as Town Counsel, to serve at their discretion. They may also employ special counsel to assist the Town Counsel whenever, in their judgment, necessity therefor arises.

Section 3 The Select Board members shall be the agents of the Town to institute, prosecute, and defend any and all claims, actions and proceedings to which the Town is a party or in which the interests of the Town are or may be involved.

- Section 4 It shall be the duty of the Town Counsel to appear in and conduct the prosecution, defense, or compromise of said claims, actions and proceedings and the prosecution of actions or proceedings by or on behalf of any Town officer, board or committee as such when the Select Board members, having determined that any right or interest of the Town are or may be involved therein, shall so request; to conduct proceedings brought by or against the Assessors, before the Appellate Tax Board; to assist in the prosecution of complaints for violation of any by-law of the Town, when requested so to do by the board or officer enforcing the same; to examine and report upon titles to all land to be acquired by the Town; to prepare or approve contracts, bonds, deeds, and other legal instruments in which the Town is a party or in which any right or interest of the Town is involved; to appear at any and all hearings on behalf of the Town whenever his services may be required; and generally to advise and act for the Town officers, boards, and committees upon, and in legal matters touching the duties of their respective offices.
- Section 5 The Select Board members may at their discretion compromise or settle any claim or suit to which the Town is a party, which does not require the payment by the Town of any amount in excess of one thousand dollars. No settlement of a claim or suit obligating the Town in amount in excess of one thousand dollars shall be made, except as authorized by law, without the consent of the Town expressed by vote at a Town Meeting.
- Section 6 The Select Board members in their annual report shall state what actions have been brought against and on behalf of the Town, what causes have been compromised or settled, and the current standing of all suits at law involving the Town or any of its interests.

[Adopted at October 10, 1970 STM]
(Addition of Section 1 at May 10, 2021 ATM, approved by AG August 4, 2021)

ARTICLE V

RECORDS AND REPORTS

- Section 1 All officers, boards and committees of the Town, shall cause records of their own doings and accounts to be kept in their respective places in the Town offices, and shall not be removed therefrom. Said books shall, unless otherwise provided by law, be open to the inspection of citizens of the Town at any reasonable time, but shall remain during such inspection under supervision of the officer, board or committee having custody thereof.
- Section 2 All officers, boards, standing committees and special committees of the Town having charge of the expenditures of Town money, shall annually report thereon in writing in such manner as to give the citizens a fair and full understanding of the objects and methods of such expenditures, referring, however, to the report of the Town Accountant for statements in detail of receipts and payments, and may make

therein such recommendations as they deem proper. Such reports shall be submitted for inclusion in the Annual Town Report on or before the fifteenth day of August of each year. [Amended March 22, 1993 STM, Article 3]

- Section 3 The .Annual Report shall contain, in addition to the reports of officers, boards and committees as herein before provided, a detailed report of all monies received into and paid out of the Town Treasury in the financial year next preceding, showing separately payments made from the proceeds of loans as capital outlays for permanent improvement; the report of the Collector of taxes; of receipts, payments, abatements and to whom paid; statement of all the funds belonging to the Town or held for the benefit of its inhabitants; a statement of the liabilities of the Town on bonds, notes, certificates of indebtedness, or otherwise, and of indebtedness authorized but not incurred and the purposes thereof; a statement of transfers made to or from any appropriation; abstracts of the records of the meetings of the Town held since publication of the last Annual Report; and such other matters as the said report is required by law to contain, or as may be interested by the Select Board members under the discretion granted them by law.
- Section 4 Board of Assessors shall include in their annual report a listing of all new or altered real estate valuations made during the year.
- Section 5 The Town Accountant shall set forth in detail each expenditure in excess of \$500 including fringe benefits paid by the Town. All expenditures of each department under \$500, may be grouped together in separate categories. This section does not apply to employees of the School Department. [Amended May 14, 1983 ATM, Article 30]
- Section 6 Permanent records of all boards, committees and officers of the Town when completed shall be deposited in the custody of the Town Clerk for preservation.
- Section 7 [Section added May 18, 1976 ATM, article 44]
1. There is hereby established a Council on Aging in accordance with provisions of General Laws, Chapter 40, Section 8B, the Council on Aging shall coordinate or carry out programs of the Department of Elder Affairs designed to meet programs of the aging and shall submit a yearly report of its doings.
 2. The Council shall consist of nine (9) members appointed by the Select Board to serve a three year term. [Amended May 16, 1994 ATM, Article 7; Amended June 7, 2010 ATM, Article 17]
 3. A majority of the Council membership shall constitute a quorum.
 4. If any member shall resign or otherwise vacate the office a successor may be appointed by the Select Board to serve the balance of the unexpired term.

- Section 8 The Town Treasurer shall include in the Annual Report a list of all tax title takings and foreclosures made by the Town during the fiscal year. [Added May 16, 1977 ATM, Article 48]
- Section 9 The Town Treasurer shall, prior to the Annual Town Meeting, prepare a list of all tax title land which has been foreclosed by the Town of Shirley, during the current fiscal year and distribute the list of such land to all Town Boards and Commissions. Upon receipt of said list, any board or commission shall in writing, notify the Select Board and Town Treasurer that they desire a particular parcel or parcels to be transferred to their care, custody, control and maintenance. The Select Board shall prepare the appropriate article for submission to the voters at the Annual Town Meeting. Any parcel of land which a Town Board or Commission does not request transferred to its care, custody, control and maintenance may be sold at public auction. The Select Board shall prepare the appropriate articles for submission to the annual town meeting authorizing the sale of tax title lands which have been foreclosed by the Town of Shirley. [Added May 16, 1977 ATM, Article 47; Amended Oct 18, 1977 Article 4; Amended May 18, 1987 ATM, Article 22]

[Adopted at October 10, 1970 STM, Article 1; Revisions as noted above.]

ARTICLE VI HEALTH AND SANITATION

- Section 1 No person shall place or cause to be placed in any public street or way of the Town any rubbish, ashes, or garbage or the containers therefore. (For penalty see Section 1 of Article XII)
- Section 1a. No rubbish, ashes, or garbage or containers therefore shall be within view from a public street or way except on the day assigned for collection. (For penalty see Section 1, Article XII)
- Section 2 No person shall throw the carcass of any animal into any of the ponds, or streams of water within the limits of the Town, or suffer or leave any such carcass to decay on the surface of the ground, or to be insufficiently buried therein, near any building, public way, or place.(For penalty see Section 5 of Article XII)
- Section 3 No person shall drain his sink, stable, cesspool, out-building, or any offensive matter into the public highway, street or public grounds. (For penalty see Section 1, Article XII)
- Section 4 No person shall throw paper, hand bills, or advertising sheets of any kind in the public streets of the Town and no person shall make any marks, letters, or figures of

any kind or post any bills upon any wall, fence post, tree, building, or structure without permission of the owner thereof. (For penalty see Section 1, Article XII)

Section 5 No person shall foul any well, spring, brook, pond or stream or water with any substance which shall kill the fish therein, or create offensive smells therefrom, or so as to injure the public health or annoy inhabitants of the Town.(For penalty see Section 3 of Article XII)

Section 6 No premises shall be used for the preparation, sale, dispensing, or distribution of food unless equipped with adequate toilet and lavatory facilities, approved in writing by the Board of Health or its agent. This section shall not apply to refreshment stands.(For penalty see Section 5 of Article XII)

Section 7 No room used for the preparation, sale dispensing, distribution, or storage of foods shall be used for living quarters. (For penalty see Section 2 of Article XII)

Section 8 No person or persons other than residents of the Town of Shirley shall deposit waste, trash or rubbish in the Town Dump. (For penalty see Section 5 of Article XII)

Section 9.0 All dogs kept or coming within the Town of Shirley shall be licensed in accordance with the provisions of applicable state laws. All such licenses shall be renewed annually. Any owner or keeper of an unlicensed dog who fails to obtain this annual dog license by the end of January of each year shall be charged a delinquency or late fee in addition to the normal license fee. This delinquency fee shall be annually determined by the Select Board and shall not be assessed for any new dog brought into the Town or for a dog less than six (6) months old.

Section 9.1 No owner or keeper of any dog shall permit such dog, whether licensed or unlicensed, to run at large or, whether leashed or unleashed, to be a public nuisance within the Town, except that a dog may, for the purpose of a sporting event, such as hunting, field trials, or training, be exempt from this requirement of restraint during such period of time as the dog is actually engaged in the event or sport. Dogs may be taken from the owner's premises; provided, that such dogs are under the control of the owner or keeper.[June 10,1996

Section 9.2 (a) It shall be the duty of the dog officer or member of the police department to apprehend any dog not on a leash or found unrestrained and running at large and to impound such dog in a suitable place, or to order the owner or keeper thereof to restrain such dog.

(b) If such dog so impounded has upon it the name and address of the owner thereof, or if the name of such power is otherwise known, then the dog officer shall immediately notify the owner and if the owner is not known, then no notice shall be necessary. The owner or keeper of any dog so impounded may reclaim such dog upon payment to the dog officer of the

impoundment fee, as determined by the dog officer, for each twenty-four hour period or part thereof that the dog has been held, provided, however, that if the dog is not licensed, then before the dog is released to any person, a license as required by the Town shall be secured.

Section 9.3 Any dog which has been impounded and has not been redeemed by the owner within ten days shall be disposed of as provided by Section 151A, Chapter 140 of the general laws of the state, and any amendments thereto.

Section 9.4 Any owner or keeper found in violation of this by-law shall be subject to a fine in accordance with the following schedule:

1st Offense	\$15.00
2nd Offense	\$25.00
3rd and subsequent offense in a calendar year	\$50.00

If a dog in violation of any provision of this by-law is unlicensed at the time of the violation, the owner or the keeper of such dog will be subject to an additional fine of \$25. Further, if the owner or keeper of a dog be a minor, the parent or guardian of such minor shall be held liable for any violation of this by-law.

Section 9.5 The sums collected pursuant to this by-law shall be accounted for and paid to the Town Treasurer; provided, however, that under the applicable provisions of the state law, the dog officer or veterinarian caring for a dog shall be entitled to all fees payable by the owner or keeper of such dog on account of its impoundment.

Section 9.6 The dog officer or members of the police department duly appointed, shall enforce the provisions of this by-law relating to dogs, and shall attend to all complaints or other matters pertaining to dogs by the owners thereof.

Section 9.7 For the purposes of this by-law, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the text clearly indicates otherwise:

Dog - All animals of canine species, both male and female.

Keeper - Any person, corporation or society, other than the owner, keeping or harboring a dog as herein defined.

Owner - Any person or persons, firm, association or corporation owning, keeping or harboring a dog as herein defined.

Public Nuisance - Any dog shall be deemed a public nuisance when attacking, barking at, chasing, or frightening a person or a domestic animal while such dog is on property other than that of such dog's owner or keeper; when destroying property; when on a public school ground and not under the full control of its owner or keeper, whether the dog is leashed or unleashed; if it shall persistently chase moving vehicles; or if it shall persistently or recurrently bark or howl between the

hours of 10:00 p.m. and 7:00 a.m. on more than two occasions within a seven-day period. Such barking or howling in a subsequent seven day period shall constitute a separate instance of nuisance. Further, any unsprayed female dog in season, shall be deemed a public nuisance when not confined indoors by the owner thereof, or housed in a veterinary hospital or registered kennel.

Restraint - Under control of and obedient to commands of its owner or keeper, whether the dog is on or off a leash.

Run-At-Large - Free of restraint and permitted to wander on private or public ways at will.

Under Control - Sufficiently obedient to the commands of the owner or keeper, whether the dog is on or off a leash, to prevent any incident which creates a public nuisance as herein defined.

Section 9.8: The owner or any person having the care, custody or control of a dog shall remove forthwith any excrement deposited by said dog and properly dispose of same in a trash container. This section shall apply to feces left by a dog on public sidewalks, public streets or roadways, public parks, recreational fields, and on property other than the dog owner's. This section shall not apply to the dog owner's property.

[Sections 1-8 Adopted at Oct 10, 1970 STM, Article 1]

[Sections 9.1 - 9.8 Adopted at May 15, 1978 ATM, Article 43]

[Section 9.4 Amended May 14, 1983 ATM, Article 32 and May 18, 1985 ATM Article 6]

[Section 9.0 Adopted June 4, 1990 ATM, Article 5]

[Section 9.1, 9.2(b), 9.4, 9.5, 9.7 Amended June 10, 1996 STM, Article 19]

[Section 9.8 added March 26, 2007 ATM, Article 6]

ARTICLE VII POLICE REGULATIONS

Section 1 All traffic regulation shall be under the direction of the Chief of Police.

Section 2 The Select Board is hereby authorized and as to those signs and signals required hereunder it shall be its duty, to place and maintain or cause to be placed and maintained all official traffic signs, signals, markings, and safety zones. All signs, signals, markings, and safety zones shall conform to the standards as prescribed by the Department of Public Works of the Commonwealth of Massachusetts. It shall be unlawful for any person to place or maintain or to display upon or in view of any street any unofficial sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic sign, signal, marking, or device, or which attempts to direct the movement of traffic or which hides from any view any official sign or signal. The Chief of Police is hereby empowered to remove every such

prohibited sign, signal, marking or device or cause it to be removed, without notice. (For penalty see Section 2, Article XII)

- Section 3 No person shall deface, injure, move, obstruct, or interfere with any official traffic sign, signals, or marking. (For penalty see Section 3, of Article XII)
- Section 4 Three or more persons shall not stand in a group or near each other on a public way or sidewalk in such a manner as unreasonably to obstruct a free passage for vehicles or pedestrians after having been requested by any constable or police officer to move on. (For penalty see Section 1, of Article XII)
- Section 5 No person shall coast on any of the streets or public ways of the Town except such streets as are publicly designated for that purpose by the Select Board. (For penalty see Section 1, of Article XII)
- Section 6 The tenant, occupant or owner of any estate abutting on any street, highway, or town way in the town, and where there now is, or hereafter may be, a sidewalk constructed of or covered with concrete, brick, cement, stone, or any other material than earth, turf, or gravel, shall remove or cause to be removed, within twelve hours after the ceasing to fall, form, or drift thereon, all snow, sleet, or ice. Said sidewalks shall be maintained safe and convenient to public pedestrian travel by said tenant, occupant or owner by sprinkling or causing to be sprinkled thereon sand, salt, or other suitable substances. (For penalty see Section 3, of Article XII) [Amended by Article 7 of April 7, 2008 STM]
- Section 7 It shall be unlawful for any person to park upon a street or highway any vehicle displayed for sale. (For penalty see Section 1, Article XII)
- Section 8 No person shall maintain a swimming pool without fencing or other protection. (For penalty see Section 5 of Article XII)
- Section 9 Deleted [Article 10 of ATM May 20, 1991 and replaced with ARTICLE XXII – Solicitor/Canvasser.]
- Section 10 Deleted [Article 10 of ATM May 20, 1991 and replaced with ARTICLE XXII – Solicitor/Canvasser]
- Section 11 Deleted [Article 11 of ATM May 20, 1991 and replaced with ARTICLE XXIII – Unregistered Vehicle]
- Section 12 "Officer" For the purpose of these Rules and Orders an officer shall be construed to mean any police officer, any investigator, examiner or inspector of the Registry of Motor Vehicles, and any constable or special officer, provided he has his badge of office displayed over his left breast and upon his outer garment.

- Section 13 Nothing contained in this Article shall be construed to derogate from the power of the Select Board members to make reasonable rules and orders for the regulation of carriages and vehicles used in the Town.
- Section 14 No person shall drink from or possess an open container of any alcoholic beverage as defined in Chapter 138, Section 1 of the Massachusetts General Laws, while on, in, or upon any public way, sidewalk, or upon any way to which the public has a right of access, or a public park, playground, or any private land or place without the consent of the owner or person in control of such public or private land or place. All alcoholic beverages being used in violation of this bylaw shall be seized and safely held until final adjudication of the charges against the person or persons arrested or summoned before the court. Upon final adjudication of the charges against the person or persons arrested or summoned, and upon direction of the adjudicating authority, such alcoholic beverage shall be returned to the person entitled to lawful possession. Such alcoholic beverages must be claimed by said person with seven (7) days after final adjudication, or they shall be destroyed by the seizing authority. Violation of this bylaw is punishable by a fine of not less than fifty (\$50) dollars for the first offense, and by a fine of not more than one hundred (\$100) dollars for a second or subsequent offenses. . [Added by article 36 of May 17, 1976 ATM; Amended article 8 of May 18, 1985 ATM; Amended by article 7 of September 24, 2012 STM].
- Section 15 A. Snow in Ways - No Person, other than an employee of the Town of Shirley or of an independent contractor for the Town of Shirley, engaged in snow removal for the Town, shall pile, push, or blow snow or ice onto or across a public way, or any way that is plowed and sanded by the Town. [Amended by article 7 of April 7, 2008 STM]
- B. Obstructing Hydrants. Depositing of snow and/or ice in such a manner as to obstruct the operation of any Fire Hydrant is prohibited.
- C. Penalty. Violation of this by-law shall be subject to a penalty of fifty dollars (\$50) for the first offense and one hundred dollars (\$100) for each subsequent offense.
- [Sections 15A, B, and C added by article 16 of October 22, 2001 STM]
- Section 16 No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in Chapter 94C, Section 1 of the Massachusetts General Bylaws, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, school house, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public. The fine for violation of this bylaw shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this bylaw shall be in addition to any

civil penalty imposed under Chapter 94C, Section 32L of the Massachusetts General Laws, as amended. [Added by Article 8 of September 24, 2012 STM]

[Adopted at October 10, 1970 STM, Article 1; Revisions as noted above.]

ARTICLE VIII **CONVEYANCE FOR HIRE**

- Section 1 The Select Board may license hackney carriages or motor vehicles for the conveyance of persons for hire from place to place within the Town or elsewhere, provided that investigation be made and proper recommendations as to character of the applicant be furnished by the Chief of Police of the Town, and they may revoke such licenses at their discretion, and a record of all licenses so granted or revoked shall be kept by the Select Board members.
- Section 2 No person shall set up, use or drive in the town any unlicensed hackney carriage or motor vehicle for the conveyance of passengers for hire from place to place within the Town. (For penalty see Section 3 of Article XII)
- Section 3 Licenses shall expire on the thirty-first day of December next after the date of issue, and shall not be transferred without the consent of the Select Board endorsed thereon. For each license the sum of ten dollars (\$10.00) shall be paid to the Town Treasurer for the use of the Town. A license so granted shall become void if the applicant neglects or refuses to take out and pay for his license within the ten days after notice that this has been granted.
- Section 4: [Added by Article 3 of Oct 18, 1977 STM. Deleted by Article 5 of June 4, 1990 ATM]

[Adopted at October 10, 1970 STM, Article 1; Revisions as noted above.]

ARTICLE IX **HAWKERS AND PEDDLERS**

- Section 1 The Select Board members may license suitable persons to be dealers in and keepers of shops for the purchase, sale or barter of second-hand articles; they may also license suitable persons as junk collectors; to collect by purchase, or otherwise second-hand articles from place to place in said Town; and they may provide that such collectors shall display badges upon their persons or upon their vehicles, or upon both when engaged in collecting, transporting, or dealing in second-hand articles, and may prescribe the design thereof.

Section 2 No person shall perform any of the actions described in Section 1 of this Article unless licensed as therein provided and unless complying with any condition stated in said license. (For penalty see Section 2 of Article XII)

[Adopted at October 10, 1970 STM, Article 1]

ARTICLE X

Section 1 No driveway or other means of access abutting a Town way or a Way maintained by the Town of Shirley shall be installed without a permit from the Select Board and subject to terms and conditions imposed therein.

[Adopted at October 10, 1970 STM, Article 1]

ARTICLE XI **SOIL REMOVAL**

Section 1 GENERAL

No person shall remove soil, loam, sand, or gravel from any parcel of land in the Town of Shirley in excess of 500 cubic yards in any one year without the approval of the Select Board, after a public hearing of which due notice is given. In issuing a permit to the property owner or owners of a parcel of land the Board may impose reasonable conditions as to the re-surfacing with loam, grades and heights above the water table, provided, however, that no permit or permits shall be issued by the Board for the removal of more than (5,000) five thousand cubic yards in the aggregate from any one parcel in any one year.

Section 2 FEES & REGULATIONS

1. All applications for removal of soil, loam, sand, gravel, or other earth products, shall be accompanied by an application fee to be determined annually by the Select Board.
2. All fees collected shall be paid into the Treasury of the Town.
3. The Select Board may adopt regulations to implement the provisions of this bylaw and to establish conditions on permits issued hereunder.

Section 3 SPECIAL PROVISIONS FOR SUBDIVISIONS AND FOR COMMERCIAL & INDUSTRIAL ZONES.

Notwithstanding the provisions of Section 1 of this By-law, upon the written favorable recommendation of all of the following Boards, Commissions, and Officers of the Town:
Building & Zoning Inspector,

Conservation Commission,
Board of Health,
Highway Surveyor,
Planning Board,
and Board of Water Commissioners of the Shirley Water District.

The Select Board may grant permits to the owners of land shown on pending (preliminary or definitive) subdivision application plans (hereinafter "pending subdivision", or of property zoned for commercial or industrial use in connection with which site plan approval is being sought, to remove there from in excess of 5,000 cubic yards of soil per year.

When an application is received to remove in excess of 5,000 cubic yards of soil in one calendar year from a pending subdivision, or from a parcel or parcels of land in a commercial or industrial zoning district, the Select Board members shall promptly notify the Departments listed above, and they shall have 30 days within which to submit their written recommendations to the Select Board members. Failure to make a timely recommendation will be deemed to be a favorable recommendation. The Select Board members shall not hold a hearing regarding an application for such a soil removal permit with the 30 day period herein described.

If reasons are stated therefor, the recommendations submitted to the Select Board members may include conditions, limitations, and restrictions not inconsistent with the terms and conditions prescribed by other Town authorities acting within their respective jurisdictions. The Select Board members shall be bound by all such conditions, limitations, and restrictions except as they may be modified by the respective departments listed above at the hearing on each permit application. In any case, the recommendations of the Departments listed above shall explicitly state whether the soil removal being requested is necessary or desirable in order for the applicant to meet the requirements or standards of the Respective Departments.

Section 4 REGULATIONS REGARDING SUBDIVISIONS AND COMMERCIALLY & INDUSTRIALLY ZONED PROPERTIES.

Before granting the initial permit to remove in excess of 5,000 cubic yards of soil from a pending subdivision or from a commercially or industrially zoned property under this By-law, the Select Board, pursuant to Section 2.3 of this By-law, shall, at a public meeting, with the recommendations of the Departments listed above, adopt regulations governing the removal of such material. These regulations must receive the approval of each board or official listed in Section 3. Each board or official shall have one vote. These regulations may include, but are not limited to, the requirement of performance security, measures to address considerations of public health and public safety, noise, dust, other effects observable at the lot lines of the subject property to an objectionable degree, or effects that will be detrimental to the normal use of adjacent property. The resulting regulations shall be provided to applicants for permits and shall be implemented and enforced by the Select Board members. The regulations may be amended from time to time by the Select Board members on their own initiative or at the request of any of the listed Departments.

Section 5 ENGINEERED PLANS

Before a property owner may remove soil from one or more particular parcels of land or from a pending subdivision either

- (a) in an amount between 500 and 5,000 cubic yards in a calendar year, or
- (b) in an amount in excess of 5,000 cubic years in any calendar year,

the property owner shall submit a registered engineer's or land surveyor's plan or plans, with two-foot contours, of the parcel (s) or pending subdivision with the application for a soil-removal permit. These plans shall show existing contours plus the proposed contours at the conclusion of soil-removal operations for the particular calendar year, together with a calculation of the cubic yards of soil to be removed.

In addition, the owner shall submit with the original application for soil removal an engineered plan depicting the intended final contours of the site, together with corresponding calculations, when all soil removal operations will be complete.

No application for a permit to remove soil per category (a) or (b) above shall be scheduled for hearing, unless and until the required contour plans and calculations accompany the application.

Section 6 SPECIAL FEE & PENALTY PROVISIONS.

For all soil-removal operations exceeding 5,000 cubic yards per year from a pending subdivision or from commercially or industrially zoned property, the owner of the land from which the soil is to be removed shall pay to the Town, for the costs and expenses associated with administering the application therefor and monitoring of the removal operation, two dollars (\$2.00) for each cubic yard in excess of 5,000 so removed as a non-refundable fee unless provided under Section 7A. Payment shall be made to the Town Treasurer before the soil-removal permit may issue, or a bond shall be submitted to the Select Board members and filed with the Treasurer to cover the total amount of the anticipated fees, which shall then be paid monthly. The Select Board members may suspend or revoke a soil-removal permit if fees are not remitted on a timely basis. If more than the permitted quantity of soil is removed, the owner of the land shall pay to the Town a penalty in the amount of five dollars (\$5.00) per each cubic yard in excess of the permitted quantity, up to a maximum amount of \$300 per calendar day or portion thereof until the soil in excess of the permitted quantity is returned to its original site.

If removed soil is being provided to the Town, the Select Board may waive payment of the fee of \$2.00 per cubic yard, but not payment of any penalties.

Section 7 CHANGES

- A. If during the calendar year less soil was removed from a subdivision or from a commercially or industrially zoned property than was projected, the property owner may file an amended engineered plan. If and when the Select Board approves this plan, upon the

recommendations of the Departments listed above, the fee advanced by the property owner shall be adjusted and rebated.

B. If during the calendar year the property owner wishes to remove more soil from a subdivision or from a commercially or industrially zoned property than was projected, the property owner must file an amended engineered plan. If and when the Select Board approves this plan, upon the recommendation of the Departments listed above, the property owner shall be required to pay an additional fee or post an additional bond to cover the same before soil-removal operations may continue.

[Adopted at June 30, 1970 STM, Article 1; Revised May 20, 1974 ATM, Article 27; Revised May 18, 1976 ATM, Article 35; Revised May 19, 1986 ATM Article 11; Revised Nov 14, 1995 STM Article 3; Entire bylaw revised Oct. 2, 2000 STM, Article 10]

ARTICLE XII **PENALTIES**

The Town of Shirley has developed and revised the Penalties By-Laws. This by-law brings penalties for varied offenses more in line with existing Massachusetts General Laws and serves as an enforcement tool to access appropriate fines for specific violations.

Applicability:

The provisions of this by-law shall apply to Shirley's finable offenses as identified in the corresponding by-laws.

Section 1 Violations of Section 1 and 3 of Article VI of the Town Bylaws (Health and Sanitation) shall be punished by a fine of \$300.00, for each offense, with each day a violation exists considered a separate violation. In addition, any person violating this bylaw shall be required to remove all illegally dumped materials at his own expense, or, after failure to comply with an order to remove said materials, shall reimburse the Town for its actual costs incurred in connection with removal of such materials.

Section 4 of Article VI and of Sections 4, 5, and 7 of Article VII shall be punished by a fine of \$25.00 per offense.

Section 2 Violations of Section 7 of Article VI, (Health and Sanitation) of Section 2 of Article VII, (Police Regulations) and of Section 2 of Article IX (Hawkers and Peddlers) shall be punished by a fine of \$50.00 for each offense.

Section 3 Violations of Section 15 of Article I, (Town Meeting) Section 5 of Article VI, (Health and Sanitation) Sections 3 and 6 of Article VII (Police Regulations) and of Section 2 of Article VIII shall be punished by a fine of \$50.00

- Section 4 Deleted May 21, 1991
- Section 5 Violations of Section 2 and 6 of Article VI, (Health and Sanitation) and of Section 8 of Article VII (Police Regulations) shall be punished by a fine of \$50.00 for each offense.
- Section 6 Violation of Section 1 and 2 of Article X (Driveways) shall be punished by a fine of \$100.00 for each offense.
- Section 7 Violation of Section 1 of Article XI (Soil Removal) shall be punished by a fine of \$50.00 for the first offense, \$100.00 for the second offense, and \$200.00 for each subsequent offense.
- Section 8 Each day that a violation of the sections set forth herein continues shall constitute a separate and distinct offense.

[Adopted at Oct 10, 1970 STM, Article 1; Revised May 21, 1991 ATM, Article 9; Revised Nov 10, 2014 STM, Article 13]

ARTICLE XIII **MISCELLANEOUS**

- Section 1 Amendments. These by-laws may be amended at any Town Meeting after notice is given in accordance with the law.
- Section 2 All existing by-laws if in conflict with these are hereby repealed.

[Adopted at October 10, 1970 STM, Article 1]

ARTICLE XIV **HISTORIC DISTRICT COMMISSION**

- Section 1 There is hereby established under the Historic District Act, General Laws, Chapter 40C, as amended by Chapter 359 of the Acts of 1971, with all the powers and duties of an historic district commission a Shirley Historic District Commission consisting of five (5) members to be appointed by the Select Board members thereby reducing the membership of said commission from seven to five; provided however, that such reduction shall be implemented by the Select Board in such a manner that the term of at least one member of the Shirley Historic District Commission shall expire each year. [Amended June 11, 1990 ATM Article VI]

One or more of the foregoing shall be a resident of the historic district established in Shirley pursuant to the Historic District Act. When the Commission is first

established, one member shall be appointed for a term of one year, three shall be appointed for a term of two years, and their successors shall be appointed in like manner for terms of three years.

- Section 2 The Historic Commission established hereunder shall have all the powers and duties of a historical commission and may in the exercise of such powers and duties accept money gifts and expend the same, and subject to appropriation or receipt of such gifts, employ clerical and technical assistants and consultants. The aforesaid powers and duties shall include, however without limitation, the following:
- a. To propose from time to time as they deem appropriate the establishment, in accordance with the provisions of the Historic District Act, additional historic sites or changes in historic districts.
 - b. To determine an appropriate system of markers for selected historic sites and buildings not already sufficiently marked, and to arrange for the preparation, installation and care of such markers.
 - c. c. To cooperate and advise the highway department and other Town departments in matters involving historic sites and buildings, and to cooperate with and enlist assistance of the Shirley Historical Society and other organizations, public and private, concerned with historic sites and buildings.
- Section 3 The Commission shall adopt rules and regulations for the conduct of its business not inconsistent with the provisions of the Historic District Act, the provisions of Chapter 40, Section 8D (the Historical Commission Act) or this By-Law as the case may be.
- Section 4 When taking action under the provisions of the Historic District Act, Section 7, the Commission shall make its determination within 45 days after the filing of the application for a certificate of appropriateness or such further time as may be agreed upon by the Commission and the applicant.
- Section 5 Any applicant aggrieved by a determination of the Commission may, within 20 days, appeal to a superior court.
- Section 6 The Historic District Commission in considering applications for certificates of appropriateness, shall consider the appropriateness of proposed exterior features, wherever such exterior features are subject to public view from a public street or way. The Commission shall not make any recommendations or requirements except for the purpose of preventing development obviously incongruous to the historic aspects of the surroundings and the historic district.
- Section 7 Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design, material color or the outward appearance thereof; or to prevent the

construction, reconstruction, alteration or demolition of any such feature which the building inspector shall certify is required for public safety.

Section 8 There is hereby established under the provisions of the Historic District Act, as amended, an historic district to be known as the Shirley Center Historic District bounded as shown on a map entitled "Proposed Historic District Boundaries", dated 1972 and revised in June 1973, attached to and made part of this By-Law, a copy of which is on file with the Town Clerk. The boundaries of the proposed Historic District are as follows:

Beginning at a corner of walls at the southerly side of Horsepond Road being the northeasterly corner of the Shirley Center Cemetery; thence northerly by the line of the westerly wall of said Cemetery, as extended, crossing said road and land of Holden to an iron pipe set just easterly of the southeasterly corner of the Pray Field, so called; thence westerly to said corner and, by the same line, by the southerly wall of said field to the northeasterly corner of the Town Pound, at the easterly line of the Town Hall lot; thence northerly by said Town Hall Lot to the northeasterly corner thereof; thence westerly by the northerly line of said Town Hall Lot to a point 300 feet easterly of Parker Road; thence northerly by a line parallel to said Parker Road and 300 feet there-from to a point in common line of land of MacKaye and the land of Lamoreaux; thence westerly by said common line to said Parker Road and, by said line, as extended to the westerly side of said Parker Road; thence northerly by the westerly side of said Parker Road to common line of land of Farrar and land of Coates; thence westerly 300 feet by said common line to a point in said line; thence southerly by a line parallel to said Parker Road and 300 feet therefrom to a point 300 feet westerly of the intersection of said Whitney Road and King Road, so called; thence southerly by a line at right angles to said Whitney Road and crossing said Road to a point 300 feet northerly of Center Road; thence westerly and southerly by a line parallel to said Center Road and 300 feet therefrom to common line of Banks and land of Longley, being the southerly line of said Longley land; thence southeasterly by said line to the northwesterly side of said Center Road and, by said line, as extended, to a point 300 feet southeasterly of said Road; thence northerly and easterly by a line parallel to said Road and to the Common, as the case may be, and 300 feet therefrom, to a point 300 feet easterly of Brown Road; thence southerly by a line parallel to said Brown Road and 300 feet therefrom to a point in common line of land of Bolton and land of Wagner; thence easterly by said common line to said Brown Road and, by said line, as extended, to the easterly side of Brown Road; thence southerly by the easterly side of said Road to the common line of land of Carlson and land of Wills; thence easterly by said common line 300 feet to a point in said line; thence northerly by a line parallel to said Brown Road and 300 feet therefrom to a point in said westerly wall of said Shirley Center Cemetery; thence, northerly by said wall to the corner of walls which was the point of beginning. The general intent except where special conditions indicated above and on the map exist, is that the Historic District near boundaries shall be 300 feet back from the property edges along Center, Whitney, Parker and Brown Roads.

Section 9 In case any section, paragraph or part of this ordinance be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

[Adopted August 28, 1973 STM, Article 5; amended June 4, 1990 STM, Article 6]

ARTICLE XV PERSONNEL BOARD

SECTION 1- COMPOSITION OF BOARD

There is hereby established a Personnel Board consisting of five members, appointed by the Select Board. Members shall be appointed for staggered terms not to exceed three years. No more than 50% of the total actual voting members may be Town employees, or elected or appointed officials with supervisory responsibilities for Town employees.

The Town Administrator and a representative of the Finance Committee shall serve in an advisory capacity as non-voting members of the Personnel Board. [Amended STM April 7, 2008, Article 6]

SECTION 2 - COVERAGE

For the purpose of this By-Law, "employee" shall include any person occupying a compensated position of service to the Town as defined in the Town of Shirley Personnel Policy & Procedures Manual.

Exceptions: No elected or appointed member of a Board, Commission, or Committee of the Town shall be deemed an employee of the Town for purposes of this By-law, nor shall any elected Officer of the town unless that Officer so requests in writing to the Select Board members. Neither shall this By-law apply to persons participating in a Town sponsored Tax Reduction Incentive Program or persons covered by a union contract or to those personnel holding appointed positions in the Shirley Public School District unless the School Committee votes otherwise. [Amended STM April 7, 2008, Article 6]

SECTION 3 -DUTIES & RESPONSIBILITIES

The Personnel Board shall have the following duties and responsibilities with respect to all employees of the Town who are not covered by a union contract:

1. To prepare and administer a Wage and Salary Classification Plan, subject to approval at Town Meeting;
2. To establish Personnel Administration Policies and Procedures to assist covered employees and Town officials, governing all other questions relating to wages, hours, and conditions of employment not covered by the Wage and Salary Classification Plan;

3. To issue, amend, or revoke administrative rules and regulations for the purpose of giving effect to the provisions of all By-laws and votes of the Town pertaining to personnel administration. Each such rule or regulation shall be numbered in sequence, and the Board shall maintain in the Select Board members's Office a file for all such rules and regulations issued, said file to be open to public inspection;
4. To publish and maintain a Manual of Personnel Policies & Procedures for the benefit of Town employees and officials;
5. To establish its own rules of procedure and to draw up such other rules and regulations consistent with statute, By-law, or vote of the Town as will enable the Board fully and effectively to perform its duties;
6. To perform such other duties as may become desirable or necessary from time to time, in order to assure just and effective personnel administration in the conduct of the Town's business, provided such other duties are permitted by law to be undertaken by a personnel board.

For the foregoing purposes the Personnel Board shall have access to such facts, figures, records, and other information relating to the personnel of Town Departments as will enable the Board fully to perform its duties. However, this right of access shall not pertain to employee records which are privileged or otherwise protected by law or which are not necessary for the performance of the Board's duties.

SECTION 4 - TOWN MEETING & PUBLIC HEARING

The Personnel Board shall present its proposed Wage Scale and Classification Schedule in the Warrant for Each Annual Town Meeting. The Board shall hold a public hearing before adopting any policy, procedure, rule, or regulation and before submitting any Article for the Warrant for a Town Meeting, including the proposed Wage Scale and Classification Schedule.

All Departments and personnel shall be notified of such hearings and what is being proposed at least 14 days in advance of the hearing date. In addition, all public hearings shall be advertised in a local newspaper at least one week before the hearing date.

Town Meeting, by a majority vote, may rescind or revoke a policy, procedure, rule, or regulation adopted by the Personnel Board.

SECTION 5 -BUDGET

The Personnel Board shall have a Budget which shall enable the Board to employ professional consulting, staff, and secretarial services as may be necessary.

SECTION 6 - SEVERABILITY

The provisions of this By-law are hereby declared to be severable, and if any such provision or application thereof shall be held to be invalid, illegal, or unconstitutional, this shall not be construed to affect the validity, legality or constitutionality of any of the remaining provisions or applications of this By-law.

[Adopted May 18, 1981 ATM, Article 23; Amended in its entirety October 22, 1996 STM; Rescinded Sept 20, 1999 Article 3; Adopted new wording June 13, 2000 Article 9; Amended Sept 11, 2000 STM Article #1; Amended April 7, 2008 STM Article 6]

ARTICLE XVI **EMPLOYEES**

No salaried employee of the Town (elected or appointed) shall receive monetary compensation prior to the completion of the period for which the monetary compensation is claimed without first receiving authorization from the Select Board.

[Adopted May 14, 1983 ATM Article 38]

ARTICLE XVII **TOXIC AND HAZARDOUS WASTE MATERIALS**

- Section 1 Authority. This by-law is adopted by the town under its home rules powers, its police powers to protect the public health and welfare, and its authorization under Mass. General Laws, Ch. 40, S. 21.
- Section 2 Purpose. The purpose of this by-law is to protect, preserve and maintain the existing and potential groundwater supply, groundwater recharge areas, and surface water within the town from contamination with toxic or hazardous materials and to protect the health and safety of the inhabitants thereof.
- Section 3 Definitions. "Toxic or hazardous materials" shall include all liquid hydrocarbon products including, but not limited to, gasoline, fuel and diesel oil, and also any other toxic, caustic, or corrosive chemicals, radioactive materials or other substance controlled as being toxic or hazardous by the Division of Hazardous Waste under the provisions of Chapter 21 (c), G.L.
- Section 4 Storage Generally
- A. Every owner or operator of a commercial or industrial establishment, (including home occupations and agricultural and horticultural operations) storing toxic or hazardous materials in quantities totaling more than 50 gallons liquid volume or 25 pounds dry weight shall register with the Board of Health the types of materials stored, quantities, location and method of storage. An inventory of such materials shall be maintained on the premises

and be reconciled with purchase, use, sales and disposal records on a monthly basis, in order to detect any product loss. Registration required by this provision shall be initially submitted by June 30, 1985, and annually thereafter. Maintenance and reconciliation of inventories shall also begin by June 30, 1985.

- B. Waste containing toxic or hazardous materials shall be held on the premises in product-tight containers for removal by a licensed carrier and for disposal in accordance with the Massachusetts Hazardous Waste Management Act. Chapter 21C. G.L.
- C. The Board of Health shall require that containers of toxic or hazardous materials be stored on an impervious, chemical resistant surface compatible with the material being stored, and that the storage area be enclosed with a permanent dike or impermeable construction.
- D. Every person having knowledge of a spill, leak or other loss of toxic or hazardous material shall immediately report the spill or loss of same to the Board of Health and if involving flammable or explosive materials to the Fire Department.

Section 5 Underground Storage

- A. The following provision shall apply to all underground liquid toxic or hazardous material storage systems:
 - 1. Owners shall file with the Board of Health the size, type, age, and location of each tank, and the type of fuel or chemical stored in each, on or before June 30, 1985. Evidence of date of purchase and installation, including Fire Department permit, if any, shall be included along with a sketch map showing the location of such tanks on the property.
 - 2. Owners of such tanks for which evidence of installation date is not available shall at the order of the Board of Health, have such tank systems, tested. If either the Board of Health or the Fire Chief determines that the tank is not product tight it shall be removed.
 - 3. All steel tanks shall be subject to one of the following tests 15 years after installation and annually after 20 years or if evidence of installation date is not available: a 5 pounds per square inch air pressure test performed on an empty tank, or a Kent-Moore Pressure test, or any other testing system providing equivalent safety effectiveness. Certification of testing shall be submitted to the Board of Health and Fire Chief. Any tanks failing the test shall be neutralized or disposed of under the direction of the Fire Chief and the Board of Health.

4. Newly installed tanks shall be of approved design and protected from internal and external corrosion. The following tank construction systems are considered to provide adequate corrosion protection: all fiberglass construction; steel with bonded fiberglass and internal lining; and the Steel Tank Institute 3-Way Protection system.

B. The following provisions apply to all underground toxic or hazardous material storage systems:

1. All leaking tanks must be emptied within 12 hours of leak detection and removed in a time period to be determined by the Fire Chief and the Board of Health.
2. All new or replacement tank installations within 4 feet of high water table or within 100 feet of a surface water body shall be of fiberglass construction. The Fire Chief and the Board of Health shall determine if the installation is to be vaulted or anchored.

Section 6 Variances. After a public hearing thereon, the Board of Health may vary the application of any provisions of this by-law in any case, when, in its opinion, the enforcement thereof would do manifest injustice and the applicant has demonstrated that the same degree of environmental protection required under this by-law will still be achieved. Requests for such variance shall be in writing and shall be accompanied by such plans and information as required by the Board of Health. The applicant must notify all abutters by certified mail at his own expense at least 10 days before the public hearing conducted by the Board of Health at which the variance request will be considered.

Section 7 Fee. The Board of Health may charge for additional expenses incurred for the enforcement or maintenance of this by-law.

Section 8 Penalty. Any person who violates any provision of this by-law shall be punished by a fine of not more than \$200. Each day or portion thereof during which a violation continues shall constitute a separate offense; if more than one, each condition violated shall constitute a separate offense. This by-law may be enforced pursuant to Mass. General laws Ch. 40, S. 21D by a Town Police Officer or other officer having police powers. Upon request of the Board of Health or the Fire Department, the Select Board and Town Counsel shall take such legal action as may be necessary to enforce this by-law.

[Adopted at May 19, 1984 ATM, Article 18]

ARTICLE XVIII
RECREATION VEHICLES

- Section 1 No person shall operate a snow vehicle or a recreation vehicle on any Town way or public way situated in the Town of Shirley nor upon the plowed snowbanks of such ways.
- Section 2 No person shall operate a snow vehicle or recreation vehicle on private property without the permission of the owner of said property. In addition, no person shall operate such vehicles within 300 feet of an occupied residence without the permission of the owner or tenant of said residence.
- Section 3 No person shall operate a snow vehicle or recreation vehicle between the hours of 10:00 P.M. and 7:30 A.M.
- Section 4 No person shall operate a snow vehicle or recreation vehicle unless the same has been duly registered with the Division of Marine and Recreational Vehicles. Every person operating such vehicles shall have the certificate of registration therefore upon his person or in the vehicle, in some easily accessible place, and upon demand, shall show the same to any law enforcement officer or to the owner of any land on which he is operating said vehicle. All such vehicles shall be equipped with all safety equipment required by the provisions of M.G.L. c. 90B, and as may be required by the Director of the Division of Marine and Recreational Vehicles. No such vehicles shall be operated which make an unusual or excessive noise or which emit obnoxious fumes. No person shall use a muffler cut-out bypass, straight pipe or a similar device on any such vehicle.
- Section 5 No person under the age of 16 1/2 years of age shall operate a snow vehicle or a recreational vehicle across a Town way or public way. No person under 14 years of age shall operate a snow vehicle or recreation vehicle unless directly supervised by an adult. Every person operating a snow vehicle or recreation vehicle within the Town of Shirley must hold and carry a duly issued and currently valid Massachusetts driver's license or, in lieu thereof, a license pertaining to such vehicles issued by the Shirley Police Department. The Shirley Police Department, subject to the approval of the Select Board, shall prescribe what information shall be furnished to obtain such an operator's license. Any applicant for such a license shall minimally demonstrate to the satisfaction of the Shirley Police Department his competence to operate such a vehicle and shall be furnished a copy of this By-Law concerning the operation thereof.
- Section 6 No person shall operate a snow vehicle or recreation vehicle in the Town of Shirley unless he shall wear protective headgear conforming with such minimum standards for construction and performance as the Registrar of Motor Vehicles may prescribe. No one shall operate a snow vehicle or a recreation vehicle while under the influence of intoxicating liquor or narcotic drugs. No one shall operate a snow

vehicle or recreation vehicle so as to endanger any person or property or in a reforested or planted area in a manner to cause damage to growing stock.

- Section 7 Any operator of a snow vehicle or recreation vehicle involved in an accident resulting in death or injury to a person or damage to property in excess of \$50.00 must notify the Shirley Police Department immediately and shall file a further report of the incident with the Division of Marine and Recreational Vehicles within 48 hours.
- Section 8 For purposes of the By-Law, a recreation vehicle shall mean any motor vehicle designed or modified for use over unimproved terrain, if used for recreation or pleasure off a public highway as define in M.G.L., c. 90, and all legally registered motor vehicles when used off a way, as defined in said Chapter 90. A snow vehicle shall mean a motor vehicle designed to travel over ice or snow, supported in whole or in part by skis, belts, or cleats.
- Section 9 The fee for any licenses issued by the Shirley Police Department hereunder shall be \$10.00. Whoever violates any provisions of this Article XVIII or any person operating a snow vehicle or recreation vehicle upon the land of another and who fails to remove himself from said land after being requested to do so by the owner thereof or who refuses to stop after having been requested or signaled to do so by any law enforcement officer or whoever refuses to give his true and correct name and address or refuses to display the registration of such vehicle shall be punished by a fine of \$50.00 for each such offense.

[Adopted May 18, 1985 ATM Article 19]

ARTICLE XIX

SHIRLEY NON-ZONING WETLANDS BYLAW

1. **Purpose and Application:** The purpose of this Bylaw is to supplement the Commonwealth of Massachusetts Wetlands Protection Act, to further protect the wetlands, related water resources, and adjoining land areas in the Town of Shirley by regulating activities likely to have significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, wildlife habitat, and rare species habitat deemed important to the community. This Bylaw is intended to utilize the Home Rule authority of the Town to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and Regulations (310 CMR 10.00) thereunder.

The definitions and forms, as well as the plan, notice, and hearing requirements utilized under the Wetlands Protection Act shall continue to be applicable, however additional application forms may be required. The Shirley Conservation Commission is hereby designated as the enforcing authority for all matters within the jurisdiction of this Bylaw.

2. Jurisdiction and Resource Protection Setback: Except as permitted by the Conservation Commission or as provided in this Bylaw, no person shall commence to remove, fill, dredge, or discharge into, or otherwise alter the following resource areas: any freshwater wetlands; marshes; flats; wet meadows; bogs; swamps; vernal pools; banks; lakes; ponds of any size; rivers; streams; creeks; beaches; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water ; and the one hundred (100) foot Buffer Zone to any of the aforementioned resource areas or lands abutting any of the aforesaid resource areas. Said resource areas shall be protected whether or not they border surface waters. In addition to the requirements of the Wetlands Protection Act, there shall be a 25-foot-wide undisturbed, vegetated strip of naturally occurring plant species maintained between wetland resource areas (310 CMR 10.02(1), excluding land subject to flooding and riverfront area) and activities, as defined in the Wetlands Protection Act Regulations. In addition, no structures shall be permitted within 40 feet of any wetland in order to provide for the aforementioned 25-foot buffer and safe and adequate access around said structures. The purpose of the 25-foot undisturbed strip is to filter out pollutants and sediment before they reach waterways, to help with floodwater absorption, and to support wildlife habitat. This additional requirement shall apply to all activities subject to the Wetlands Protection Act, except the following:
- a. Activities with either current Board of Health permits, non-expired Orders of Conditions, or non-expired Determinations of Applicability as of March 21, 2005, or activities for which complete Notices of Intent or Requests for Determination have been submitted, but not acted upon, prior to March 21, 2005.
 - b. "Limited projects" as defined by the Wetlands Protection Act Regulations General Provisions 310 CMR 10.00. These projects, more particularly described in 310 CMR 10.53(3), include but are not limited to public utilities, public roadways, agricultural projects, water-dependent uses, and access driveways and roadways.
 - c. "Exempt Activities" as defined by the Wetlands Protection Act Regulations 310 CMR 10.58(6). These include, but are not limited to, the maintenance of existing landscaping, such as lawn mowing.
 - d. Emergency projects, as defined in 310 CMR 10.06.
 - e. Repairs to or replacement of an existing sewage disposal system, including required grading allowed under 310 CMR 10.03(3).
 - f. Activities determined by the Conservation Commission to have no adverse effect on resource area values. The burden of proof for such a finding is on the applicant.
 - g. Activities on any lot legally in existence prior to March 21, 2005.

Waivers from the 40-foot setback and the 25-foot buffer requirements in the Bylaw may be granted where public benefits, such as health and safety, outweigh any adverse effect on resource values. The burden of proof for such a finding is on the applicant.

3. Filing Fees: After due notice and public hearing, the Commission may promulgate rules and regulations, including a filing fee schedule, to effectuate the purposes of this Bylaw. Notice of the time and place of the hearing shall be given by the Conservation Commission not less than fourteen (14) days prior to the hearing by publishing in a newspaper of general circulation (in Shirley) and by posting at the Town Offices. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw.
4. Third Party Review: In addition to any filing fee imposed by this Bylaw, the applicant shall reimburse the reasonable costs and expenses borne by the Commission for specific expert engineering and consulting services deemed necessary by the Commission, provided that the scope of the application meets the criteria set forth below. The amount of the reimbursement fee shall be based on the standard set forth below.

The Commission is authorized to charge this site and/or design review reimbursement fee when the Commission determines that a Notice of Intent, Request for Determination, or Certificate of Compliance involves any of the following: 500 square feet or greater of alteration of Freshwater Wetlands; 50 linear feet or greater of alteration of a Bank, Stream, or River; 500 square feet of Land Under Bodies of Water; discharge of any pollutants into surface or ground waters of any resource area under this Bylaw; or construction of a detention or retention basin or other drainage device.

Said specific expert engineering and consultant services may include but are not limited to consultants' overhead and office expenses required to process said Notices, Requests, and Certificates; copying plans and technical submittals for further review; subcontracting for professional services; mileage; wetland survey and delineation; hydrogeologic and drainage analysis; purchase or borrowing of materials; wildlife habitat, rare species, shellfish and fisheries evaluation; and environmental or land use legal consultation.

Said reimbursement fee shall be paid by the applicant within thirty (30) calendar days of receipt of a written request from the Commission. Said payment may be required by the Commission at any point in the reviewing or deliberating processes but not before the Commission has provided the applicant with a written estimate of the cost of the services to be provided. The fee shall be paid to the Town and deposited into a special account established under Chapter 44, Section 53G of the General Laws and shall be expended by the Commission for services approved by the Commission at a public meeting.

In setting the amount of said reimbursement fee, the Commission shall utilize the following standard: the fee shall equal the amount of the actual bills for all expenses incurred for the File Number that are submitted by an expert engineer or consultant.

5. Appeals: In the event that any person has been aggrieved by a decision of the Shirley Conservation Commission under this Bylaw, or by its failure to act thereunder, such person may appeal under M.G.L. Chapter 249, Section 4.

6. Severability: The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination that previously has been issued.
7. Relationship to the Wetlands Protection Act: This Bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and Regulations (310 CMR 10.00) thereunder. Unless otherwise stated in this Bylaw, the areas of jurisdiction, definitions, provisions, procedures, and performance standards of the Wetlands Protection Act (M.G.L. Chapter 131, Section 40) and Regulations (310 CMR 10.00) as in effect on February 23, 2005 shall continue to apply.
8. Enforcement:
- a. The filing of a Notice or Request shall constitute the consent of the owner and the grant of authority for the Commission, its agents, officers, and employees to enter upon privately owned land for the purpose of performing their duties under this Bylaw and to make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary.
 - b. The Commission shall have the authority and duty to enforce this Bylaw, its regulations, and Orders of Conditions issued hereunder by Enforcement Orders and civil and criminal court actions.
 - c. When the Commission determines that violation of this Bylaw has occurred, it may request the Select Board and the Town Counsel to take legal action for enforcement under civil law. In addition, the Commission may request the Chief of Police or other authorities to take legal action for enforcement under criminal law.
 - d. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.
 - e. Any person who violates any provision of this Bylaw may be punished by a fine of not more than three hundred dollars (\$300.00) per offense. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the Bylaw, regulations, or Order of Conditions violated shall constitute a separate offense.
 - f. In the alternative to criminal prosecution, the Commission may elect to utilize the non-criminal disposition procedure set forth in Massachusetts General Laws Ch. 40, Sec. 21D, in which case the penalty shall be as follows:
 - First offense: \$ 25.00
 - Second offense: \$100.00
 - Third and subsequent offenses: \$300.00
 - g. No person shall remove, fill, dredge, or alter any Area Subject to Protection under this Bylaw without the required authorization, or cause, suffer or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original

condition, or fail to comply with an Enforcement Order issued pursuant to this Bylaw. Each day such violation continues constitutes a separate offense.

- h. Any person who purchases, inherits, or otherwise acquires real estate upon which work has been done in violation of the provisions of this Bylaw or in violation of any Order issued under this Bylaw shall forthwith comply with any such Order or restore such real estate to its condition prior to any such violation; provided, however, that no action, civil or criminal, shall be brought against such person unless such action is commenced within three (3) years following the recording of the deed or the date of the death by which such real estate was acquired by such person.

[Adopted June 5, 1995 ATM article 10; Revised 6/10/1996 article 15; Rewritten 3/21/2005 STM Article 11]

ARTICLE XX

NON-CRIMINAL DISPOSITION OF VIOLATIONS

- Section 1 Except when otherwise provided by law, prosecutions for offenses under the by-laws of the Town may be made by any constable or police officer of the Town.
- Section 2 Criminal Complaint. Whoever violates any provision of these by-laws may be penalized by complaint brought in the district or housing court. Except as may be otherwise provided by law and as the district court or housing court may see fit to impose, the maximum penalty for each violation or offense, brought in such manner, shall be Two Hundred (\$200.00) Dollars:
- Section 3 Non-Criminal Disposition. Whoever violates any provision of these by-laws, the violation of which is subject to the specific penalty, may be penalized by a non-criminal disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board, or department which is subject to a specific penalty. Without intending to limit the generality of the foregoing, it is the intention of this provision that the following by-laws and section of by-laws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases (except as may be otherwise provided by law) and that in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such section: Each day on which any violation exists shall be deemed to be a separate offense. [Amended Oct 22, 2001 STM, article 16]

GENERAL BYLAWS	FINE
Art. VI Health and Sanitation and CMR 5.21 (Bd. of Health & Dog Officer)	\$ 50
Art. VII Police Regulations (Police Department)	\$50
Section 15 – Snow Regulations - First offense	\$50
Section 15 – Snow Regulations - Subsequent Regulations	\$100
Art. X Driveways (Bd. of Select Board members)	\$100
Art. XI Soil Removal (Bd of Select Board members)	\$50
1st Offense	\$100
2nd Offense	\$200
Ea. Subsequent Offense	
Art. XVIII Recreational Vehicles (Bd of Select Board members)	\$50
Wetlands Law MGL Chapter 131 (Conservation Commission)	\$50
Shirley Protective Zoning Bylaw (Building Inspector)	\$100

[Adopted 06/04/1990 ATM article 10]

ARTICLE XXI

HOUSE .AND PARCEL NUMBERING

Every resident and parcel in the Town of Shirley shall have a house number assigned to it by the Building Inspector. The owner of said residence, as the same shall appear from the records of the Shirley Assessors, shall be responsible for placing said house number on the residence in such a manner as permits the number to be easily seen from the nearest public way or way in which the public has a right of access. If such number cannot easily be seen as aforesaid, then the owner shall cause said number to be placed in a visible fashion on a post, tree, or other structure at or near the driveway entrance on the aforesaid way serving such residence. Whoever violates this by-law shall be penalized by a non-criminal complaint pursuant to the provisions of MGL Chapter 40, Sec. 21D. Each day on which a violation exists shall be deemed to be a separate offense. The Select Board or Building Inspector shall be the enforcing persons for this by-law. The penalty for violation of any provision of this by-law shall be \$25.00 after an initial written warning and \$50.00 for each offense thereafter.

[Adopted at May 20, 1991 ATM, Article 9]

ARTICLE XXII
SOLICITOR/CANVASSER

Section 1 License Required. It shall be unlawful for any solicitor or canvasser as defined in this by-law to engage in such business within the Town without first obtaining a license therefore in compliance with the provisions of this by-law. The provisions of this by-law shall not apply to any person exempted under Chapter 101 of the General laws, or to any person duly licensed under Chapter 101 of the General laws, or to any person exempted by an other General Law, nor shall this by-law be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic route deliveries.

Section 2 Definition. A solicitor or canvasser is defined as any person who, for himself, or for another person, firm or corporation travels by foot, automobile or any other type of conveyance from place to place, from house to house or from street to street, taking or attempting to lease or take orders for retail sale of goods, wares, merchandise, or services, including without limiting, the selling, distributing, exposing for sale or soliciting orders for magazines, books periodicals or other articles of a commercial nature, the contracting of all home improvements, or for services to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of the subject of such sale or whether he is collecting advance payment on such retail sales.

Section 3 Application. Applicants for a license shall file with the Chief of Police, on a form issued by the Police Department, a written application signed under the penalties of perjury, containing the following information:

- a. Name of applicant
- b. Address of applicant (local and permanent home address)
- c. Applicant's height, weight, eye and hair color.
- d. Applicant's social security number.
- e. The length of time for which the right to do business is desired.
- f. A brief description of the nature of the business and the goods to be sold.
- g. The name and home office address of the applicant's employer. If self-employed, it shall so state.
- h. If operating a motor vehicle: the year, make, model, motor number, registration number, State of Registration Vehicle's owner and address.

At the time of filing the application, each applicant shall pay a fee of Two (\$2.00) Dollars.

Section 4 Investigation and Issuance.

1. Upon receipt of the application, the Chief of Police shall investigate the applicant's reputation as to morals and integrity.

2. After an investigation of the applicant's morals and integrity, but within 7 business days of the filing of the applicant, the Chief of Police shall endorse on such application his approval or disapproval. Failure of the Police Chief to act on said permit within 7 business days of the applicant's filing shall constitute approval. If disapproved, the applicant shall have the right of appeal to the Select Board in writing within 7 days of the denial by the Chief of Police. The Select Board must act upon the appeal at one of their next two regularly scheduled meetings. Failure to so act shall be deemed approval.
3. Such license when issued shall contain the signature of the Chief of Police or the Select Board and shall show the name, address of said licensee, the date of issuance and the length of time the same shall be operative, as well as the license number. The Police Department shall keep a record of all licenses issued for a period of six (6) years. Each licensee is required to possess an individual license.

Section 5 Duty of Police to Enforce - Transfer. The police officers of the Town shall enforce this by-law. No license shall be transferred.

Section 6 Revocation of License. The Chief of Police is hereby vested with jurisdiction over the revoking of licenses. Any person aggrieved by such revocation may appeal to the Select Board within 7 business days, and a hearing will be scheduled for one of the next two regularly scheduled meetings of the Select Board.

Section 7 Expiration of License. Each license issued under the provisions of this by-law shall continue in force from the date of its issue until the thirty-first day of December following, unless sooner revoked.

Section 8 Renewal of License. A license issued under the provisions of this by-law may be renewed by the Chief of Police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such information as is required to obtain an initial license.

Section 9 Misrepresentation.

1. No solicitor or canvasser, licensed or exempted from license, may misrepresent, in any manner, the buyer's right to cancel as stipulated by Chapter 93, 93A and 255D of the General Laws.
2. No solicitor or canvasser, licensed or exempted from license, may use any plan, scheme or ruse which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office, or other establishment with the purpose of making a sale of consumer goods or services.

Section 10 Trespassing. It shall be unlawful for any canvasser or solicitor to enter the premises of a resident or business who has displayed a "no trespassing" or "no soliciting" sign

or poster. Further, it shall be unlawful for canvassers or solicitors to ignore a resident or businessperson's no solicitation directive or remain on private property after its owner has indicated that the canvasser or solicitor is not welcome.

Section 11 Penalty. Any person violating any provision of this by-law shall, upon conviction thereof, be punished by a fine not to exceed Fifty(\$50.00) Dollars for each and every offense.

This Article may also be enforced by a non-criminal complaint pursuant to the provisions of MGL Chapter 40, Sec 21D.

[Adopted at May 20, 1991 ATM, Article 10]

ARTICLE XXIII **UNREGISTERED VEHICLES**

Section 1 No person or firm shall keep or permit to be kept on any premises within the Town of Shirley, more than one unregistered motor vehicle assembled or disassembled, unless said vehicles are stored within an enclosed building.

Section 2 A special permit to keep more than one unregistered motor vehicle on any premises not within an enclosed building, after a duly called public hearing to which all abutters to the premises have received notice, may be granted by the Select Board, if it finds that such keeping (1) is in harmony with the general purposes and intent of the By-Law; (2) will not adversely affect the neighborhood and (3) will not be a nuisance.

Section 3 All such special permits granted shall limit the number of unregistered motor vehicles to be kept on the premises by the permit holder, shall not run with the land, and shall be limited to a reasonable length of time.

Section 4 The provisions of Sections one through five, inclusive of this Article, shall not apply to motor vehicles designed and used for farming purposes, nor to persons or firms in the lawful exercise of licenses granted under General Laws, Chapter 140, Sections 58 and 59, as amended.

Section 5 Whoever violates any provisions of this Article of the By-law shall be penalized by a non-criminal complaint pursuant to the provisions of MGL Chapter 40, Section 21D. Each day on which a violation exists shall be deemed to be a separate offense. The Select Board or Building Inspector shall be the enforcing persons for this by-law. The penalty for violation of any provision of this by-law shall be \$25.00 for the first offense and \$50.00 for each offense thereafter.

[Adopted at May 20, 1991 ATM, Article 11]

ARTICLE XXIV
FEES OF TOWN OFFICERS

- Section 1: Pursuant to Massachusetts General Laws Chapter 40, Section 21, Clause 13, all charges, fees, and other monies collected or received by all Boards, Commissions, Committees, Officials, or other officers or agents of the town by virtue of their office or in connection with their official duties, shall be remitted to the general fund of the Treasury of the Town, unless otherwise required by law, or unless the Town directs that another specific account or fund of the Town be credited with certain revenues. In each case the amount of all such fees shall be published in the Annual Town Report. In no event shall any fee or charge be received by any member of a Board, Commission, or Committee, or by any Official or other officer or agent of the Town, for his or her personal benefit or use unless required by law.
- Section 2: Pursuant to Massachusetts General Laws Chapter 41, Section 38A, the Collector of Taxes shall collect, under the title of Town Collector all accounts due the Town, and further, the said Town Collector shall have all the powers and duties conferred by law in relation to the collection of said accounts, except that the Town Collector shall not be entitled to reimbursement of fees as provided by Massachusetts General Laws Chapter 60, Section 15, and further provided that the Town Collector shall be compensated by salary.
- Section 3. This By-Law shall apply whether or not the charge or fee is authorized or established by the United States of America, the Commonwealth of Massachusetts, or the County of Middlesex, but it shall not apply to wages, salaries, or other compensation paid by the Town for services to the Town or to the public.

[Adopted at May 16, 1994 ATM, article 19]

ARTICLE XXV
CAPITAL IMPROVEMENT PROGRAM

- Section 1 The Finance Committee, in conjunction with the Select Board, shall be responsible for developing an Annual Capital Improvement Program for the Town. An Article setting forth the Capital Improvement Program shall be included each year in the Annual Town Meeting Warrant for adoption by the Town. [Amended June 3, 2002 ATM and June 8, 2009 ATM]
- Section 2 Capital Projects and Purchases, to be included in the capital Improvement Program, must meet all the following criteria:
- 1) Purchased or undertaken at intervals of not less than 3 years;
 - 2) Have a useful life of at least three years; and
 - 3) Cost over \$10,000.

All Officers, Boards, Commissions, and Committees shall, by January 30, of each year, submit to the Finance Committee information concerning all anticipated Capital Projects and Purchases requiring Town Meeting action. Such information submitted to the Finance Committee shall include information about all Capital Projects and Purchases anticipated for the next five-year period. The Finance Committee shall consider the relative need, timing, cost, and other impacts of the requested expenditures, including the effect each will have on the financial position of the Town. No appropriation for a Capital Project or Purchase shall be considered by the Finance Committee for action unless the proposed Project or Purchase is included in the Capital Improvement Program.

Section 3 Adoption of the Capital Improvement Program shall authorize the expenditure of sums from departmental budgets for surveys, architectural or engineering advice, and options or appraisals toward Capital Projects and Purchases included in the Program. Except as otherwise authorized by vote of Town Meeting, no such expenditure shall be made for Capital Projects or Purchases which are not included in the program, nor for preliminary planning for Capital Projects or Purchases to be undertaken more than five years in the future.

Section 4 The Finance Committee shall publish a report of its recommendations about the Capital Improvement Program each year and place the same on file with the Town Clerk.

ARTICLE XXVI **SEWER SYSTEM**

Section 1 Establishment of Sewer System. There is hereby established within the Town a sanitary Sewage collection system, to be known as the Shirley Sewer System, and a sanitary sewage collection system service area, to be known as the Shirley Sewer Service Area, which shall respectively include facilities and real property shown on a plan entitled "Town of Shirley, Massachusetts, Wastewater Collection System, Figure 1," prepared by Woodard and Curran, dated January 2000, a copy of which is on file in the Office of the Town Clerk, as it may be amended from time to time by vote of the Sewer Commission.

Section 2 Extension of Sewer System. The Shirley Sewer System may be extended or expanded to serve additional land, whether within or outside the original service area, upon a two-thirds majority vote at an Annual or Special Town Meeting.

Section 3 Control of Sewer System. The Shirley Sewer System shall be under the control and supervision of the Town. The Town shall have the authority to employ a Superintendent and such assistants and employees for the proper operation and maintenance of the Sewer System. The Superintendent and all such assistants and employees shall be subject to the control and direction of the Town.

Section 4 Regulations. The Town shall have the power to adopt Rules and Regulations for the implementation of this By-Law and for the operation and maintenance of the Sewer System. Such regulations may include, but need not be limited to, engineering requirements for the connection of buildings to the Sewer System, controls and limitations on substances which may be deposited or discharged into the Sewer System, the assessment of Betterments for payment for the construction costs of the Sewer System, and the imposition of permit fees, connection fees and user charges.

Section 5 Required Connection.

A. The owner or occupant of a building situated within the Shirley Sewer Service Area shall:

i. Except as provided in Subparagraph ii, connect said building to the Sewer System within two (2) years of the date when said Sewer System is available for such connection.

ii. In the case of a building constructed after the Shirley Sewer System is available for connection from said building, connect said building to the Sewer System prior to the issuance of a certificate of occupancy by the Building Inspector.

B. The Board of Health may grant a variance from the connection requirement if the Board finds one of the following:

i. That the land cannot be drained into the Sewer System, by reason of its grade or level or any other cause, until such impediment is removed.

ii. That the Building is served by a private on-site subsurface sewage disposal or septic system which complies with the requirements of Title 5 of the State Environmental Code and the requirements of the Boards of Health, but only for so long as the system continues to comply with such requirements.

C. Notwithstanding the provisions of Paragraph A of this Section, the owner of a building within the Shirley Sewer Service Area, but beyond three hundred feet from the sideline of a street or right of way in which the Sewer System is constructed, may elect to connect the building to the Sewer System or to maintain a private on-site subsurface sewage disposal or septic system which complies with the requirements of Title 5 of the State Environmental Code and the requirements of the Board of Health, but only for so long as the system continues to comply with such requirements.

Section 6. Betterments.

A. In order to finance the construction and other related project costs of the Shirley Sewer System, the Town shall assess Betterments to lots or parcels of land,

whether or not built upon, located within the Shirley Sewer Service Area, in accordance with the applicable provisions of Chapter 83 of the General laws. Assessments shall be made based upon a uniform unit method, which shall be based upon the total project costs for the potential Sewer Units to be served. Potential Sewer Units shall be calculated on the basis of Zoning By-Law provisions in effect on the date said assessment is made. For the purpose of calculating Sewer Units, each building lot shown on a plan recorded at the Middlesex Registry of Deeds, shall be considered a separate lot from contiguous parcels in common ownership. Each Sewer Unit shall be equal to a single-family dwelling. Non-residential uses shall be converted in Sewer Units on the basis of residential equivalents.

- B. Property owners shall have the option to finance Betterment payments over a period of time to a maximum of twenty years. In the case of such financing interest at the statutory rate shall be paid annually on the unpaid balance due.
- C. For undeveloped lots or parcels of land, the Town may extend the time for payment of Betterment assessments until the land is built upon or for a fixed time, but not for more than twenty years. In the case of such an extension, interest at the statutory rate shall be paid annually upon the assessment from the time it was made. The assessment shall be paid within three months after the lot or parcel of land is built upon or at the expiration of the fixed time, whichever occurs first.
- D. No Betterments shall be assessed on undeveloped land that is under a total building restriction, such as for agricultural, conservation, or forestry purposes, in perpetuity.
- E. No Betterments shall be assessed on land if, prior to the date of such assessment, all owners of a building thereon have elected, pursuant to Paragraph C of Section 5, not to connect such building to the Sewer System.

Section 7 Privilege Fee.

- A. No lot or parcel that was not originally assessed a System construction or extension Betterment may be connected to the Sewer System unless the owner shall petition the Town for such connection and agree to the payment of a Privilege Fee, in lieu of the assessment of a Betterment, against such lot which can be connected either to the existing Sewer System or to an extension thereof. The Privilege Fee shall be equivalent to the amount that would have been calculated as the Betterment assessment pertaining to each lot, adjusted in conformance with the Engineering News Record Index, current as of the time the fee is levied, or its equivalent, if the lot had been among the lots assessed such a Betterment.

- B. The Privilege Fee shall be levied at the time of connection to the Sewer System. To the extent permitted by law, the method of paying a Privilege Fee shall be the same as for paying a Betterment.
- C. If a property owner, with the permission of the Town and under its supervision, constructs an extension to the Sewer system, the owner shall pay the costs of
 - i. Review of design plans and specifications for the extension to be accepted a part of the Sewer Systems, conducted by a registered professional engineer, as authorized by the Town; and
 - ii. Application, filing, permit, and inspection fees relating to the installation of the new sewer lines connecting to the Sewer System

[Adopted at Dec 1, 1998 STM, Article 2; Amended Nov 22, 1999 STM, Article 7; Amended Jan 24, 2000 STM, Article 7; Re-Written Sept 11, 2000 STM, Article 11; Amended Oct 20, 2003 STM Article 1.]

ARTICLE XXVII

DEMOLITION OF HISTORICALLY SIGNIFICANT BUILDINGS and STRUCTURES -

DEMOLITION DELAY BYLAW

Section 1. Intent and Purpose

It is the intent and purpose of this bylaw to preserve and protect from demolition, whenever possible, historically significant buildings and structures; to ask owners of such buildings or structures to explore possible alternatives to such demolition, and thereby preserve the historic resources of the Town, make the Town a more desirable and attractive place in which to live, and so promote the general welfare.

Section 2. Definitions

For the purposes of this section the following words and phrases shall have the following meanings:

“Building Inspector”- The Town of Shirley Building Inspector.

“Building”- A structure having a roof or covering forming a shelter for persons, animals, or property.

“Commission” – The Shirley Historical Commission, which also functions as the Shirley Center Historic District Commission for matters involving properties within the Shirley Center Historic District. The Commission may designate one or more of its members to act in its behalf between the Commission’s regular monthly meetings.

“Demolition”- Any act of pulling down, dismantling, or otherwise razing an existing building or structure, requiring the issuance of a Demolition Permit by the Building Inspector.

“Demolition Permit”- The permit issued by the Building Inspector as required by the State Building Code for the demolition, or removal of a building or structure.

“Form B” and “Form F” – The documents authorized by the Massachusetts Historical Commission for use by town historical commissions to record the historic assets within their town boundaries. Form B is for buildings and Form F structures. These forms are essential documents when application is made for listing buildings or structures on the National Register of Historic Places.

“Historically Significant Building or Structure”- A building or structure that retains a significant amount of original, unaltered structure, fabric or detail, and/or is associated with historically significant persons or events, and has been determined by the Commission to be the subject of a public hearing to review if it is worthy of preservation.

“Preferably Preserved Significant Building or Structure”- Any “historically significant building or structure” which is determined, after a public hearing by the Historical Commission, to be worthy of preservation.

“Structure”- Any construction, erection, assemblage or other combination of materials upon the land made in such a manner as to indicate a purpose that it remain in position indefinitely.

Section 3. Regulated Buildings and Structures

The provisions of this bylaw shall apply only to any structurally sound building or structure that is the subject of a “Form B” or “Form F”, recorded with the Massachusetts Historical Commission as an historic asset of the Town of Shirley, or a pending application for same.

Section 4. Procedure

- a. No permit for the demolition of any building or structure shall be issued other than in conformity with the provisions of this bylaw and in conformity with the provisions of other laws and bylaws applicable to the demolition of buildings and structures and the issuance of permits generally.
- b. Upon receipt of an application for a demolition permit the Building Inspector shall forward a copy of the demolition permit application to the Commission and the Town of Shirley Planning Board.
- c. Under this bylaw, the receipt by the Commission of a letter from the owner of a building or structure stating the intention to demolish that building or structure shall

be treated by the Commission as the equivalent of receipt of an application for a demolition permit under section 4, paragraph d.

- d. Within ten (10) calendar days of the receipt by the Commission of an application for a demolition permit, the Commission shall determine whether the building or structure is a regulated building or structure. And, if the Commission determines that the building or structure is regulated by this bylaw, the Commission shall also determine within the same ten (10) calendar days whether the building or structure is Historically Significant. The Commission shall notify the Building Inspector if the Commission determines that the building or structure is Historically Significant and is subject to a public hearing.
- e. If the Commission determines that the building or structure is not regulated by this bylaw, or is not Historically Significant, notice of this determination of non-applicability shall be sent to the Building Inspector. This determination shall remain valid for a period of two years from the date of application. Upon receipt of such notice, the Building Inspector may issue the demolition permit. If the Building Inspector does not receive the opinion of the Commission in regard to these determinations within ten (10) calendar days of the receipt of the application by the Commission, then subject to section seven of this bylaw the Building Inspector may grant the demolition permit.
- f. If the Commission determines that the building or structure is Historically Significant, the Commission shall review the application for demolition at a public hearing to be held within twenty (20) calendar days of the determination that the subject building or structure is Historically Significant.
- g. The Commission shall have published in a newspaper of local circulation, at the property owner's expense, notice of the date, time and place of such public hearing. Such notice shall specify the address of the subject building, and shall be published in said newspaper once during each of the two weeks preceding the date of the public hearing.
- h. Not less than five (5) calendar days before the public hearing the applicant for the demolition permit shall submit to the Commission three (3) copies of a Demolition Plan which shall include the following:
 - (i) A map or sketch plan showing the location of the building or structure to be demolished;
 - (ii) Photographs of all street facade elevations;
 - (iii) A description of the building or structure to be demolished;
 - (iv) The reasons for the proposed demolition;
 - (v) A brief description of the proposed reuse of the parcel on which the building or structure to be demolished is located.
- i. After the said public hearing and within thirty (30) calendar days from the initial application, the Commission shall determine whether the subject building or

structure is a Preferably Preserved Building or Structure and notify in writing the applicant and the Building Inspector of its determination, stating the reasons for such decision. This determination shall remain valid for a period of two years from the date of application.

- j. If it is determined within thirty (30) calendar days from the application date that the subject building or structure is both Historically Significant and Preferably Preserved, the Building Inspector shall not issue a demolition permit for a period of six (6) months from the date of such determination. The Demolition Delay period can be shortened provided that the applicant has agreed to accept a demolition permit subject to certain conditions approved by the Commission.
- k.. Upon determination by the Commission that a building or structure is a Preferably Preserved Significant Building or Structure, the owner shall be responsible for properly securing the building or structure, to the satisfaction of the Building Inspector. Should the owner fail to secure the building or structure, the loss of such building or structure through fire or other cause shall be considered demolition.

Section 5. Notice

Notice of a hearing on the determination of status provided for in this bylaw shall be sent by the Historical Commission. The costs for sending such notices shall be paid by the owner of the property. Notice copies will be sent to:

- (i) the owner of record
- (ii) the applicant (if different from the owner)
- (iii) the owners of all adjoining property as they appear on the most recent certified abutters list of the Board of Assessors,
- (iv) the Town of Shirley Planning Board
- (v) any person filing written request for notice of public hearings, such request to be renewed yearly in December, and
- (vi) other such persons as the Commission shall deem entitled to notice.

Notice to the owner and applicant shall be by certified mail.

The Commission may also require that the applicant maintain on the building or structure, a notice, on a form provided by the Commission and visible from the nearest public way, of any hearing on the subject matter of such application.

Section 6. Emergency Demolition

Nothing in this bylaw shall prevent the emergency demolition of any building or structure that demonstrates a clear and present danger to public safety. And, nothing in this bylaw shall be construed to derogate in any way from the authority of the Building Inspector derived from Chapter 143 of the General Laws. However, where possible, before acting pursuant to said chapter, the Building Inspector shall inform the Chairperson of the Commission of his intentions to cause demolition before he initiates same.

Section 7. Historic Districts Act

Nothing in this bylaw shall be deemed to conflict with the provisions of the Historic Districts Act as described in the Massachusetts General Laws, chapter 40C. This includes requirements of notice, hearing and issuance by the Commission of a Certificate of Appropriateness, a Certificate of Non-applicability or a Certificate of Hardship granted prior to the demolition of any building or structure in a historic district.

Section 8. Noncompliance

The Building Inspector shall take such actions as necessary to obtain compliance with the requirements of this by-law. In the event that a building or structure, having been determined by the Commission to be “Preferably Preserved”, is demolished without fully complying with the provisions of this by-law, the Building Inspector may deny a building permit for the parcel on which such demolition took place for a period of two years after the date of demolition.

Section 9. Severability

If any section, paragraph or part of this bylaw is declared invalid or unconstitutional by a court of competent jurisdiction, every other section, paragraph and part shall continue in full force and effect.

[Adopted at March 21, 2005 ATM, Article 10]

ARTICLE XXVIII
SEX OFFENDERS

FINDINGS AND INTENT

A. It is the intent of this by-law to serve and to protect the Town’s compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the Town by creating areas around locations where children, or the elderly regularly congregate in concentrated numbers wherein certain registered sex offenders are prohibited from loitering and establishing temporary or permanent residence.

B. After careful consideration, the Town finds that this by-law is the most narrowly tailored means of limiting, to the fullest extent possible, the opportunity for registered sex offenders to approach or otherwise come in contact with children, or the elderly in places where children, or the elderly would naturally congregate, and that the protection of the health and safety of our children, and elderly is a compelling governmental interest.

C. By the enactment of this or any other by-law, the Town understands that it cannot remove the threat posed to or guarantee the safety of children, or the elderly, or assure the public that registered sex offenders will comply with the mandates of this statute. This legislation is intended to create a civil, non-punitive regulatory scheme in order to protect children, and the elderly to the extent possible under the circumstances and not as a punitive measure of any kind.

D. Registered sex offenders pose a clear threat to the children, and the elderly residing or visiting in the community. Because registered sex offenders are more likely than any other type of offender to reoffend for another sexual offense, the Town desires to impose safety precautions in furtherance of the goal of protecting the children and elderly. The purpose of this by-law is to reduce the potential risk of harm to children and the elderly the community by impacting the ability for registered sex offenders to be in contact with unsuspecting children and the elderly in locations that are primarily designed for use by or are primarily used by children and the elderly, the grounds of a public or private school for children, a center or facility that provides day care or children's services, a park, other public recreational facility, elderly housing facilities or the Senior Citizens Center. The Town desires to add location restrictions to such offenders to the extent state law is silent.

DEFINITIONS

The following words, terms and phrases, when used in this by-law, shall have the meanings ascribed to them in this by-law, except where the context clearly indicates a different meaning:

CHILD or CHILDREN: Person or persons under 18 years of age.

DAY-CARE CENTER: Any establishment, whether public, private or parochial, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Department of Early Education and Care.

ELDER or ELDERLY: Person or persons over 60 years of age.

ELDERLY HOUSING FACILITY/SENIOR CITIZENS CENTER/OVER 55

COMMUNITY: Includes any building or buildings which provides a group residence for the elderly or a location where the elderly gather and/or reside and is located within the Town of Shirley.

ESTABLISHING A RESIDENCE : To set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory, by means of purchasing real property or entering into a lease or rental agreement for real property (including a renewal or extension of a prior agreement whether through written execution or automatic renewal).

LOITERING: To remain for more than fifteen (15) minutes within a five hundred (500) foot distance of the location in question.

PARK: Includes active and passive public land designated for recreational or athletic use by the Town of Shirley and located within the Town of Shirley.

PERMANENT RESIDENCE: A place where a person lives, abides, lodges or resides for 14 or more consecutive days.

RECREATIONAL FACILITY: Includes, but is not limited to, a playground, a forest preserve, conservation area, jogging trail or running track, hiking trail, beach, water park, wading pool, soccer field, baseball field, football field, basketball court or hockey rink, whether publicly or privately owned, to which the public has a right of access as an invitee and which is located within the Town of Shirley.

REGISTERED SEX OFFENDER: For the purposes of this by-law shall mean: a) any person who is designated as a sexually violent predator pursuant to Chapter 6, § 178K(2)(c), of the Massachusetts General Laws and who is required to register as a sex offender pursuant to the guidelines of the Sex Offender Registry Board; b) any person who is required to register as a sex offender pursuant to Chapter 6, § 178C of the Massachusetts General Laws and for so long as such person is finally classified as a Level 3 offender pursuant to the guidelines of the Sex Offender Registry Board; and c) any person who is required to register as a sex offender pursuant to Chapter 6, § 178C of the Massachusetts General Laws, for so long as such person is finally classified as a Level 2 offender pursuant to the guidelines of the Sex Offender Registry Board, and who has committed a sex offense against a child, an elder and/or a mentally retarded person.

Level 1 Sex Offenders: Where the Sex Offender Registry Board determines that the risk of re-offense by an offender is low and the degree of dangerousness posed to the public by that offender is not such that a public safety interest is served by public availability, the Board shall give that offender a Level 1 designation. Information on Level 1 offenders will not be available to the public. Neither the police nor the Board have authority to disseminate information to the general public identifying a Level 1 offender. Information identifying Level 1 offenders may only be given to the Department of Correction, any county correctional facility, the Department of Youth Services, the Department of Social Services, the Parole Board, the Department of Probation and the Department of Mental Health, all city and town police departments and the Federal Bureau of Investigation for law enforcement purposes.

Level 2 Sex Offenders: Where the Board determines that the risk of re-offense is moderate and the degree of dangerousness posed to the public is such that a public safety interest is served by public availability of registration information, it shall give a level 2 designation to the sex offender.

The public shall have access to the information regarding a level 2 offender through the Local Police Department and through the Sex Offender Registry Board.

Level 3 Sex Offenders: Where the Board determines that the risk of re-offense is high and the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active dissemination, it shall give a level 3 designation to the sex offender.

The public shall have access to the information regarding a level 3 offender through the Local Police Departments and through the Sex Offender Registry Board.

SCHOOL : Any public or private educational facility that provides educational instruction to children in grades pre-K through 12.

SCHOOL BUS STOP: Any area designated by the public school district or by a private or parochial school within the Town of Shirley as a school bus stop.

SEX OFFENDER and SEX OFFENSE: The same meanings as provided for in MGL c. 6, § 178C.

TEMPORARY RESIDENCE: A place where a person lives, abides, lodges or resides for a period of less than 14 consecutive days or 14 days in the aggregate during any calendar year, which is not the person's permanent address or place where the person routinely lives, abides, lodges or resides and which is not the person's permanent residence; but "temporary residence," shall not include residence at a hospital or other health care or medical facility for less than 14 consecutive days or 14 days in the aggregate during any calendar year.

RESIDENCY RESTRICTIONS

A. Prohibition. A registered sex offender is prohibited from establishing a permanent residence or temporary residence within 1,000 feet of any school, day-care center, park, other recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center; provided, however, that the prohibition contained in this by-law shall not apply to any level 3 offender, to the extent and in the manner such Level 3 offender is already governed by MGL c. 6, § 178K(2)(e).

B. Evidentiary matters; measurements. For purposes of determining the minimum distance separation under this section, the distance shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest outer property line of any school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center.

C. Exceptions. A registered sex offender residing within 1,000 feet of any school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center does not commit a violation of this by-law if any of the following apply:

(1) The registered sex offender established the permanent residence prior to the effective date of this by-law, and:

(a) Permanent residence was established by purchasing the real property where the residence is established, as long as the registered sex offender continues to reside in and does not move to another restricted location in Shirley different from the permanent residence established prior to the effective date of this by-law;

(b) Permanent residence was established through a valid, fixed-term, written lease or rental agreement, executed prior to the effective date of this by-law, as long as the registered sex offender continues to reside within and does not move to another restricted location in Shirley different from the permanent residence established prior to the effective date of this by-law; or

(c) Permanent residence was established through a verbal lease or rental agreement at the will of the landlord, as long as the registered sex offender continues to reside within and does not move to another restricted location in Shirley different from the permanent residence established prior to the effective date of this by-law.

(2) The registered sex offender is a minor living with his or her parent(s) or legal guardian(s), which parent(s) or legal guardian(s) has (have) established a permanent residence.

(3) The school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center within 1,000 feet of the registered sex offender's permanent residence was opened after the registered sex offender established the permanent residence.

D. Forfeiture of exception. If, either after the effective date of this by-law or after a new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center opens, a complaint or an indictment is issued by a court against a registered sex offender otherwise enjoying an exception under Subsection C that such sex offender has committed another sex offense, he/she will immediately forfeit that exception and be required to comply with this by-law.

E. Notice to move. A registered sex offender who resides on a permanent or temporary basis within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center shall be in violation of this by-law and shall, within 30 days of receipt of written notice of the registered sex offender's noncompliance with this by-law, move from said location to a new location, but said location may not be within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizens Center. It shall constitute a separate violation for each day beyond the 30 days the registered sex offender continues to reside within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center. Furthermore, it shall be a separate violation each day that a registered sex offender shall move from one location in the Town to another that is within 1,000 feet of any new school, day-care center, park, recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center.

F. Penalties. Any violation of this section shall be enforced by noncriminal disposition pursuant to MGL c. 40, §21D, as follows:

- (1) First offense by registered sex offender: noncriminal fine of \$150 and notification to offender that he/she has 30 days to move.
- (2) Subsequent offense by registered sex offender: noncriminal fine of \$300 and notification to offender's parole officer and/or probation officer, and the commonwealth's Sex Offender Registry Board, that the sex offender has violated a municipal by-law.

SAFETY ZONES

A. Prohibitions.

- (1) A registered sex offender is prohibited from entering upon the premises of a school or day-care center unless previously authorized specifically in writing by the school administration or day-care center owner.
- (2) A registered sex offender is prohibited from entering upon the premises of an elderly housing facility, over 55 Community or Senior Citizens Center, unless previously authorized in writing by the on-site manager of the elderly housing facility, over 55 Community or Senior Citizen Center.
- (3) A registered sex offender is prohibited from entering upon the premises of a park or any recreational facility.
- (4) A registered sex offender, after having received notice from the Shirley Police Department that he/she is loitering by having remained for more than fifteen (15) minutes within five hundred (500) feet of a school, a day care center, a park, any recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center, is prohibited from continuing to so loiter. For purposes of determining the minimum distance separation under this section, the distance shall be measured by following a straight line from the registered sex offender to the outer property line of the school, a day-care center, a park, any recreational facility, elderly housing facility, over 55 Community or Senior Citizen Center.
- (5) A registered sex offender, after having received notice from the Shirley Police Department that he/she is loitering by having remained for more than fifteen (15) minutes within five hundred (500) feet of a school bus stop, is prohibited from continuing to so loiter; provided, however, that this prohibition shall not apply on days when the schools within the Town of Shirley are not in session.

B. Exceptions.

- (1) The prohibitions defined in this By-Law shall not be construed or enforced so as to prohibit a registered sex offender from exercising his or her right to vote in any federal, state or municipal election, conducting town and/or police business or from attending any religious service.
- (2) The prohibitions defined in this By-Law do not apply to a registered sex offender's place of residence when such residence is excepted under this By-Law.

C. Penalties.

- (1) Any violation of this section may be enforced by noncriminal disposition pursuant to MGL c. 40, § 21D, resulting in a noncriminal fine of \$150 for a first violation and a

noncriminal fine of \$300 for each additional violation of this section. A registered sex offender commits a separate offense for each and every violation of this section.

EXEMPTIONS

The provisions of this by-law shall not be applicable to registered sex offenders incarcerated in any facilities owned, maintained and/or operated by the Town Of Shirley and/or the State of Massachusetts.

ENFORCEMENT

A. The Shirley Police Department shall be charged with the enforcement of this By-Law.

B. A written list describing the prohibited areas defined in this by-law inclusive of school bus stops, as well as a map depicting the residency restriction areas and a map depicting the safety zones exclusive of school bus stops, shall be created by the Town and maintained by the Shirley Police Department. As to school bus stops, the list and not the map depicting the safety zones shall govern. The Town shall review both the list and the maps no less than annually for changes. The list, the maps and a copy of this By-Law will be available to the public at the Shirley Police Department and Shirley Town Clerk's office, and on the Town of Shirley's website.

[Adopted June 7, 2010 ATM, Article 15]

ARTICLE XXIX **ROADWAYS AND STREET NAMES**

Section 1 In humble and grateful appreciation, the people of the Town of Shirley wish to hold closely the memory of its sons and daughters who have lost their lives through armed conflict in defense of their nation. This act taken in reverence for these men and women, their selfless acts, their all too short lives among us, and the pain and loss endured by their parents, families and friends.

Section 2. From this day forward, any thoroughfare brought before the community for acceptance as a public way must be titled with the surname or given name of one who has made the supreme sacrifice; or alternatively with the surname or given name of a person whose action, commitment or long term dedication to the Town and its citizens is recognized by the committee described in Section 3.

Section 3. The Committee to be created by the Select Board for the purpose of approving street names shall include but not be limited to members of the Historic Society, Arts or Cultural Councils, Churches, Civic Organizations, Business Organizations, Educational Organizations, Sporting Organizations, the Veterans Agent, and a municipal official of the Town of Shirley. The Committee shall assemble to meet for any items of business requested before them at least once each calendar year and shall post such meetings with the Town Clerk.

- Section 4. The street name must be selected and/or approved by the Planning Board.
- Section 5. Names of those identified as having died in service on permanent memorials in Shirley Center or Whitley Park shall be eligible for consideration. Names of persons recognized by the committee process will be eligible for consideration as a street name only after all eligible names on the permanent memorials in Shirley Center or Whiteley Park have been used.
- Section 6. Biographical information on any of these names presented to the Select Board and meeting their approval shall be read into the public record.
- Section 7. The Town Clerk will maintain files containing all information relating to a Town Meeting at which a so-named street is presented for acceptance as a public way.
- Section 8. The director of the Department of Public Works shall direct the design, placement, and number of locations of a placard to a street sign post(s) listing the full name of the veteran, and other available information such as date of birth, date of death, battle or theater. All costs shall be incurred by the developer, applicant, or owner of record.
- Section 9. Approved and/or accepted roadways and streets at the time of the adoption of this bylaw shall be exempt from the provisions of this bylaw.

[Adopted November 1, 2005 STM, Article 7]

ARTICLE XXX **STREETLIGHTS**

Establishment; Purpose:

The Town of Shirley has taken ownership of town-wide street lighting, effective 28 September 2014. The purpose of this bylaw is to establish a consistent and standardized process to be used by the Town to determine the placement and technical requirements of street lights, so as to improve public safety, increase operational efficiency, to conserve natural resources and to unify the aesthetic qualities of the Town by encouraging uniform, quality and economical town wide lighting on Town public and private ways.

Applicability:

The provisions of this bylaw shall apply to the installation, replacement or repair of any street lights in the Town of Shirley, including lights along or abutting upon all public and private ways within the Town.

Requirements:

Section 1: No person or entity shall erect, install or replace a street light upon or abutting any public or private way in the Town of Shirley without first obtaining a permit from the Select Board.

Section 2: The Select Board shall adopt, and may amend from time to time, a policy to effectuate the purposes of this Bylaw. Said policy shall establish uniform technical standards and procedures applicable to the erection, maintenance, repair and replacement of street lights in the Town of Shirley, and may include but not be limited-to the following elements:

(a) establishing street light technical standards that prioritize energy efficiency and consistency throughout the Town;

(b) establishing procedures for processing requests for installation, repair or replacement of street lights and for determining who will be responsible for the costs of such installation, repair or replacement; and

(c) establishing objective criteria for the placement of street lights where increased lighting is necessary for the safety of motor and pedestrian traffic.

[Adopted June 2, 2014 ATM, Article 12]

ARTICLE XXXI

RESERVED

ARTICLE XXXII

STORMWATER MANAGEMENT CONTROL BYLAW

Introduction

The Town of Shirley hereby determines that:

Land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn have led to increased flooding, stream channel erosion, and sediment transport and deposition, and decreased groundwater recharge.

As the area of house and building roofs, parking lots and road surfaces increase, the rate of stormwater runoff from these surfaces increases, along with the preponderance of greater flooding. Unregulated stormwater runoff from historic development has led to the flooding we see today.

Land development projects and other land use conversions also contribute to increased non-point source pollution and degradation of receiving waters.

The impacts of post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, drinking water supplies, groundwater resources, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of lands and waters.

These adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new development and re-development, by the use of both structural and non-structural Best Management Practices.

Localities in the Commonwealth of Massachusetts are required to comply with a number of both State and Federal laws, regulations and permits which require a locality to address the impacts of post-development stormwater runoff quality and non-point source pollution.

The United States Environmental Protection Agency has determined that it is in the public interest to regulate post-development stormwater runoff discharges in order to control and minimize increases in stormwater runoff rates and volumes, flooding, post-construction soil erosion and sedimentation, stream channel erosion, and non-point source pollution associated with post-development stormwater runoff.

Therefore, the Town of Shirley has established this Stormwater Management Bylaw to provide reasonable guidance for the regulation of post-development stormwater runoff for the purpose of protecting local water resources from degradation. This Bylaw regulates the post-construction stormwater controls for both new and re-development projects.

1.0 Purpose

The purpose of the Bylaw is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development Stormwater runoff, flooding and non-point source pollution associated with new development and re-development and to comply with Phase II NPDES Stormwater requirements. It is the underlying intent that proper management of post-development stormwater runoff will minimize flood damage to the public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, and promote groundwater recharge to protect surface and groundwater drinking supplies.

The objectives of this Bylaw are:

1. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
2. Require that new development, re-development and all land conversion activities result in after-development runoff characteristics that are equal to or less than the pre-development runoff characteristics in order to reduce flooding, stream bank erosion, siltation, non-point source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats;

3. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of stormwater runoff; and establish minimum design criteria for measures to minimize non-point source pollution from stormwater runoff which would otherwise degrade water quality;
4. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post development stormwater management standards;
5. Encourage the use of non-structural stormwater management measures and better site design practices or “low-impact development practices”, such as reducing impervious cover and the preservation of green space and other natural areas, to the maximum extent practicable; and coordinate site design plans, including green space, with the Town of Shirley’s design guidelines;
6. Establish provisions for the long-term responsibility and maintenance of structural stormwater control facilities and non-structural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety;
7. Establish provisions to ensure there is an adequate funding mechanism, including financial security or surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented under this Bylaw;
8. Establish administrative procedures and fees for the submission, review, approval or disapproval of stormwater management plans, the inspection of approved active development projects, and for long-term follow-up inspection to ensure ongoing care of approved facilities.
9. Establish the Town of Shirley’s legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring and enforcement.

Nothing in the Bylaw is intended to replace the requirements of the Town of Shirley Wetlands Protection Bylaw or any other Bylaw or regulations that may be adopted by the Town of Shirley, or any State or Federal requirement, law, regulation or policy. Any activity subject to the provisions of this Bylaw must comply with the requirements of all other applicable laws and regulations.

2.0 Definitions

The definitions contained herein apply to issuance of a Stormwater Management Permit established by the Town of Shirley Stormwater Management Bylaw. Terms not defined in this section shall be

construed according to their customary and usual meaning unless the context indicates a special or technical meaning.

ALTERATION: Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes shall include but not be limited to, change from distributed runoff to confined; discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT: Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision of the Commonwealth or the Federal government to the extent permitted by law requesting a Stormwater Management Permit for proposed land-disturbance activity.

CHANNEL: A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) and as it is amended from time to time.

DETENTION: The temporary storage of storm runoff in a stormwater management facility, with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the storm drain or into waters of the United States or Commonwealth from any source.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION CONTROL: A measure that prevents migration of eroded material.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing narrative, drawings and details developed by a Registered Professional Engineer duly licensed in the state of Massachusetts which includes stabilization and other measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

GRADING: Changing the level or shape of the ground surface.

GROUNDWATER: Water beneath the surface of the ground.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltration to the underlying soil. Impervious surface includes, without limitation, roads, paved parking lots, sidewalks, rooftops, compacted soils, hard-packed gravel driveways and similar surfaces.

INFILTRATION: The process of percolating stormwater into the sub-soil.

LAND DISTURBANCE ACTIVITY: Any activity which changes the volume or peak flow discharge rate of rainfall from the land surface. This shall include but not be limited to grading, removal of roots or stumps, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural man-made watercourse.

LOW IMPACT DEVELOPMENT (LID): An approach to environmentally friendly land use planning. It includes a suite of landscaping and design techniques designed to maintain the natural, pre-developed ability of a site to manage rainfall. LID techniques capture water on site, filter it through vegetation, and allow seeping into the ground rather than being lost as surface runoff so that the local water table can recharge. An important LID principle embodies the concept that rainwater is a resource and not merely a superfluous waste product. See section 4.2A Town of Shirley Zoning Bylaws.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY: The policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21 § 23-56. The policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or manmade or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Shirley.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

NON-POINT SOURCE POLLUTION: Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

OPERATION AND MAINTENANCE PLAN: (OMP) A plan describing the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

PERMIT GRANTING AUTHORITY: The Permit Granting Authority for Town of Shirley shall be the Planning Board or their authorized agent(s). The Permit Granting Authority is responsible for coordinating the review, approval and permit process as defined in this bylaw. Other boards and/or departments may participate in the review process as defined in this Bylaw or the Stormwater Regulations. The Conservation Agent, DPW Director and the Zoning Enforcement Officer are authorized to act as agents of the Permit Granting Authority in enforcing this Bylaw.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include, without limitation:

- 1) Paints, varnishes and solvents;
- 2) Oil, antifreeze and other automotive fluids;
- 3) Non-hazardous liquid and solid wastes and yard wastes;
- 4) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, accumulations and floatables;
- 5) Pesticides, herbicides, and fertilizers;
- 6) Hazardous materials and wastes, sewage, fecal coliform and pathogens;
- 7) Dissolved and particulate metals;
- 8) Animal wastes;
- 9) Rock, sand, salt, soils;
- 10) Construction wastes and residues; and
- 11) Noxious or offensive matter of any kind.

POST-DEVELOPMENT: Conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post-development

refers to conditions after culmination of a new development or re-development project and does not depict conditions during the construction phases of a project.

PRE-DEVELOPMENT: The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Permit Granting Authority. Where phased development or phased plan approval occurs (preliminary grading, roads, utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish pre-development conditions.

RECHARGE: The replenishment of underground water reserves.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RESOURCE AREA: Any area protected under the Massachusetts Wetlands Protection Act, the Massachusetts Rivers Act, or the Town of Shirley Wetlands Bylaw.

RUNOFF: Rainfall, snowmelt or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water from its origin to another location; the product of erosion processes.

SEDIMENT CONTROL: Measures that prevent eroded sediment from leaving the site or entering off-site drainage structures.

SITE: A parcel of land or a contiguous combination thereof, where land disturbing work is performed.

STABILIZATION: The use, singly or in combination, of mechanical, structural or vegetative methods to prevent or retard erosion.

START OF DEVELOPMENT: The first land-disturbing activity associated with a development, including but not limited to, land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

STORMWATER: Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

STOP WORK ORDER: An order issued which requires that all construction activity on a site will be stopped.

STORMWATER MANAGEMENT PERMIT: A permit issued by the Permit Granting Authority, after review of an application, plans, calculations and other supporting documents, that is designed to protect the Town from deleterious effects of uncontrolled or untreated stormwater runoff.

STORMWATER MANAGEMENT PLAN: A document containing narrative, drawings and details prepared by a Registered Professional Engineer duly registered in the State of Massachusetts, that

includes structural and non-structural best management practices (BMPs) to manage and treat stormwater runoff generated from regulated development activity. A Stormwater Management Plan also includes an Operation and Maintenance Plan and an Erosion and Sedimentation Control Plan.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including without limitations, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwaters.

3.0 Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rules statutes, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34, and as authorized by the residents of the Town of Shirley at Town Meeting, dated April 7, 2008

4.0 Jurisdiction

No person shall undertake a regulated activity as described below, without a Stormwater Management Permit from the Permit Granting Authority.

A.) Regulated Activities shall include any of the following:

1. Land disturbance of greater than one acre (43,560 square feet), associated with construction or re-construction activities.
2. Development or re-development involving multiple, separate activities in discontinuous locations or on different schedules if the activities are part of a larger common plan of development that together disturbs one acre or more.
3. Paving or other change in surface material over an area of one acre or more causing a significant reduction of permeability or increase in runoff.
4. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of more than one acre.
5. Any other activity altering the surface of an area exceeding one acre that will, or may, result in increased stormwater runoff flowing from the property into a public way, the municipal storm drain system, or to a watercourse or wetland. An exception is the removal of tree cover when the stumps are left in place.

B.) Exempt Activities

1. Normal maintenance and improvement of land in agricultural or forestry use as defined by the Massachusetts Wetlands Protection Act and its Regulations.
2. The construction of fencing, irrespective of materials used, that will not alter existing terrain or drainage patterns.
3. Construction, maintenance and operation of utilities (gas, water, sewer, electric, telephone, etc.) other than drainage that will not alter terrain or drainage patterns.

5.0 Administration

The Shirley Planning Board shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Planning Board may be delegated in writing by the Planning Board to its employees or agents (who may include the Conservation Agent, the DPW Director and the Zoning Enforcement Officer).

6.0 Regulations

The Shirley Permit Granting Authority may adopt and periodically amend stormwater rules and regulations relating to receipt and content of applications for an SMP, review time periods, permit terms, conditions, additional definitions, enforcement, fees (including application, inspection, ongoing maintenance and/or consultant fees), procedures, administration and enforcement of this Bylaw subsequent to a majority vote of a meeting of the Permit Granting Authority and after conducting a public hearing to receive comments on the proposed regulations and/or any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation at least fourteen (14) calendar days before a hearing date. Failure by the Permit Granting Authority to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

7.0 Permits and Procedures

Public Hearing.

The Board shall make a determination of the completeness of an application within twenty-one (21) calendar days from the submittal. The Board shall hold a public hearing within sixty five (65) calendar days of the receipt of a complete application as specified by the regulations and shall take final action within twenty-one (21) calendar days from the time of the close of the hearing unless such time is extended by agreement between the applicant and The Board. The Planning Board will request feedback from other Town Departments after receipt of the application but prior to the Public Hearing. The complete application must be reviewed by a qualified engineer at applicant's expense. Notice of the public hearing shall be given by publication and posting and by first-class mailings to all abutters at least fourteen (14) calendar days prior to the hearing. The Board shall make the application available for inspection by the public during business hours at Shirley Permit Granting Authority office. All expenses associated with the notice of Public Hearing shall be at the

applicant's expense. The Board, at its discretion, may hold concurrent public hearings for other hearings required under state, federal or local law or Bylaws.

Start of Development.

Prior to the start of development the following items must be met.

1. There shall be a twenty one (21) calendar day waiting period from the receipt of decision submitted to the Town Clerk to allow for any appeals of the Permit Granting Authority's procedures and subsequent decision. Any and all appeals shall be rectified before any Start of Development.
2. The Building Inspector shall not issue a building permit until appeal period is over.
3. The approved permit and order of conditions shall be provided to the applicant and the applicant shall record such permit and order of conditions with the proper registry of deeds. Proof of recordation shall be provided to the Permit Granting Authority before any Start of Development.

Certificate of Completion.

Upon the completion of the activities allowed under the stormwater management permit (not including the continuing and ongoing requirement of compliance with the Operation and Maintenance Plan), the applicant shall notify the Permit Granting Authority and request a final inspection and Certificate of Completion. The applicant shall submit an as-built plan prepared by a registered professional engineer along with a certification from the same that all construction has been done in accordance with the approved Stormwater Management Permit. The Permit Granting Authority may hire its own consultant to advise on completion at a cost to be received from the applicant before issuance of the Certificate of Completion.

8.0 Fees

The Permit Granting Authority shall establish fees for the submission, review, approval or disapproval of stormwater management plans, the inspection of approved active development projects, and for long-term follow-up inspection and ongoing maintenance to ensure ongoing care of approved facilities.

A. Application fees.

The Permit Granting Authority by regulation shall promulgate an application fee schedule for Stormwater Management Permit applications and Completion Certificates. The fee schedule shall be reasonably related to the costs of processing, reviewing, acting upon the application and the administration of the permit including inspections carried out in support of the permit. The fee specified in such a fee schedule shall be made payable to the Town of Shirley and shall accompany the permit application.

The Permit Granting Authority may require an additional fee for review of any change in or alteration from an approved permit.

B. Operation and Maintenance fees.

The Permit Granting Authority shall assess a Stormwater Management Plan Operations and Maintenance Fee payable by the applicant to cover the recurring cost to the Town of implementing and carrying out the stormwater management plan. In establishing said O&M Fee this bylaw recognizes that a distinction exists which separates “normal” operations and maintenance from “specialized” operations and maintenance.

Normal O&M – Operations and maintenance services are those which are normally and routinely carried out by the Town of Shirley for the following BMP’s. These BMPs provide a service or benefit to the town as a whole, and which do not result from use of any specialized BMP device: Deep sump catch basins, drainage manholes, cross-culverts which convey water from one side of a public roadway to the opposite side of said roadway, drainage pipes that are buried beneath and within the layout of public ways, pipes and manholes which connect drainage facilities within public ways to any extended detention basin, extended detention basins (including sediment forebays, and inlet and outlet control structures) whose exclusive purpose is flood peak attenuation.

Specialized O&M – Operations and maintenance services for any other BMP device not listed above and/or any stormwater management device which is unique to a specialized stormwater management practice. Specialized O&M is one which results from an applicant’s choice of use of a specialized BMP device over a normal BMP device. The applicant’s choice to use a specialized BMP device provides a service or benefit that is unique to the development plan for the land and thus is deemed to impose an increased and undue municipal burden (service and cost) by its use.

C. Professional Consultant fees.

In addition to any filing fee imposed by this bylaw, the applicant shall reimburse the reasonable costs and expenses borne by the Permit Granting Authority for specific expert engineering and consulting services deemed necessary by the Permit Granting Authority. Said reimbursement fee shall be paid by the applicant within Thirty (30) calendar days of receipt of a written request from the Permit Granting Authority. Said payment may be required by the Permit Granting Authority at any point in the reviewing or deliberation processes but not before the Permit Granting Authority has provided the applicant with a written estimate of the cost of the services to be provided. The fee shall be paid to the Town of Shirley and deposited into an account established under Chapter 44 Section 53E½ of the general laws and shall be expended by the Permit Granting Authority for services approved by the Permit Granting Authority at a public meeting.

In setting the amount of said reimbursement fee, the Permit Granting Authority shall utilize the following standard: The fee shall equal the amount of the actual bills for all expenses incurred that are submitted by an expert engineer or consultant.

9.0 Waivers

- A.) The Permit Granting Authority may waive strict compliance with any requirement of this Bylaw or the rules and regulations promulgated hereunder, where such action:

1. Is allowed by federal, state and local statutes and/or regulations;
 2. Is in the public interest;
 3. Is not inconsistent with the purpose and intent of this Bylaw.
- B.) Any applicant may submit a written request to be granted such a waiver. Such a waiver request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of this Bylaw does not further the purposes or objectives of this Bylaw.
- C.) All waiver requests shall be discussed by the Permit Granting Authority and a decision will be made by the Permit Granting Authority within 30 days of receiving the waiver request.
- D.) If, in the Permit Granting Authority's opinion, additional time or information is required for review of a waiver request, the Permit Granting Authority may continue consideration of the waiver request to a date certain announced at the meeting. In the event the applicant objects to a continuance, or fails to provide the requested information, the waiver request shall be denied.

10.0 Inspections

Filing an application for a Stormwater Management Permit grants the Permit Granting Authority, or its agent, permission to enter the site of the land-disturbing activity, as permitted by law, to verify the information in the application and to inspect for compliance with permit conditions. In the case of the projects that require an Operation and Maintenance plan, the applicant grants permission to the Permit Granting Authority or its agent to conduct periodic inspections to determine that the O&M plan is being carried out in accordance with the approved plans. The Permit Granting Authority, in their discretion, may conduct an inspection at any stage of land-disturbing activity to ensure compliance with the terms of this Bylaw and any permit. The Permit Granting Authority also may require the applicant to submit self-inspection reports at any stage of development or post-development.

11.0 Enforcement

The Permit Granting Authority, or an authorized agent of the Permit Granting Authority, shall enforce this Bylaw, its regulations, orders, stop work orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

A) Civil Relief

If a person violates the provisions of this Bylaw, regulations, permit, notice or order issued thereunder, the Permit Granting Authority may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

B) Access Permission

To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Permit Granting Authority, its agents, officers and employees may enter upon privately owned property for the purpose of performing their duties under the Stormwater Bylaw and the regulations and may make or cause to be made such examinations, surveys or sampling and photography as the Permit Granting Authority deems reasonably necessary to determine compliance with the permit.

C) Orders

The Permit Granting Authority, or its authorized agent, may issue a written order to enforce the provisions of this Bylaw, or the regulations thereof, which may include:

1. A requirement to cease and desist from the land-disturbing activity until there is compliance with the Bylaw or provisions of the Stormwater Management Permit;
2. Maintenance, installation or performance of additional erosion and sediment control measures;
3. Monitoring, analyses, and reporting;
4. Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity;
5. Compliance with the Stormwater Management Plan and Permit;
6. Repair, maintenance or replacement of the stormwater management system or portions thereof in accordance with the Operation and Maintenance Plan.
7. Remediation of adverse impact resulting directly or indirectly from malfunction of the stormwater management system. If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed.

D) Criminal Penalty

Any person who violates any provision of this Bylaw, regulation, order or permit issued there under, shall be punished by a fine of not more than \$300.00. Each day or part there under that such violation occurs or continues shall constitute a separate offense.

E) Non-Criminal Disposition

As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in M.G.L. c. 40, § 21D, which has been adopted by the Town in Article XX of the Town's General Bylaws, in which case the Permit Granting Authority or authorized agent shall be the enforcing person. The penalty for each violation shall be \$50.00 for the first violation, \$100.00 for the second violation, and \$300.00 for the third and subsequent violations. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

F) Appeals

The decision or orders of the Permit Granting Authority shall be final. Further relief shall be requested by petition to a court of competent jurisdiction.

G) Remedies Not Exclusive

The remedies listed are not exclusive of any other remedies available under any applicable Federal, State or local law.

12.0 Public Education

The Permit Granting Authority, within its available resources, shall provide educational programs on soil erosion, sediment control and stormwater management to the general public and persons regulated by this bylaw. The Permit Granting Authority shall provide guidelines and advice to ease the permit application process and foster acceptance of good erosion control and stormwater management practices.

13.0 Severability

If any provision, paragraph, sentence, or clause of this Bylaw is held invalid for any reason by a court of competent jurisdiction all other provisions shall continue in full force and effect.

14.0 Effective Date

This Bylaw shall take effect in accordance with M.G.L. c.40, s32.

[Adopted at April 7, 2008, STM Article 8)

Article XXXIII **Revolving Fund By Law**

Revolving Funds Bylaw

Section 1. There are hereby established in the Town of Shirley pursuant to the provisions of G.L. c.44, §53E½, the following Revolving Funds, from which the specified department head, board, committee, or officer may incur liabilities against and spend monies from without appropriation in accordance with the limitations set forth in this by-law.

Section 2. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.

Section 3. No liability shall be incurred in excess of the available balance of the fund.

Section 4. The total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting or any increase therein as may later be authorized by the Select Board and Finance Committee in accordance with G.L. c.44, §53E½.

Section 5. Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the General Fund.

Section 6. Authorized Revolving Funds

REVOLVING FUND PROGRAM OR PURPOSE	DEPARTMENT RECEIPTS TO BE CREDITED TO FUND	ENTITY AUTHORIZED TO SPEND	Fiscal Year Expenditure Limit
<i>Van service for transporting the elderly and disabled</i>	Fees, fares or reimbursement from Montachusett Regional Transportation Authority	Council on Aging	\$52,000
<i>Postage and Legal Advertisements - Legal advertisements and postage funded by applicants for licenses, permits, etc. to pay costs of plan review, engineering services and related expenses for permitting of septic systems (other than Planning Board)</i>	Charges, costs and fees advanced or reimbursed by applicants in connection with applications for licenses, permits, variances or other matters	Town Administrator at request of various departments	\$5,000
<i>Board and Caring for Impounded Dogs</i>	Fines and payments by owners for boarding dogs	Police Department	\$5,000
<i>Wetlands By-law Expenses - Expert engineering and consulting services retained by the Conservation Commission for review of applications under the Wetlands Bylaw</i>	Costs and fees advanced by applicants	Conservation Commission	\$25,000
<i>Fees and Expenses of Animal Inspector - payment of Animal Inspector's stipend, fees and other program expenses</i>	Fees and charges assessed to owners for inspection of domestic animals in accordance with G.L. c.129, §19	Board of Health	\$3,000
<i>Deputy Collector Fees – payment of statutory fees earned by the Town's Deputy Collector</i>	Fees added to and paid with overdue bills	Town Collector	\$15,000
<i>Field Driver Fees – payment of fees and expenses of Town's Field Driver</i>	Fees and charges assessed to owners for collecting, transporting and	Police Department	\$2,000

	impounding strayed animals		
<i>Police Lock-up – provide lock-up facilities for other governmental entities</i>	Fees paid for use of cells	Police Department	\$5,000
<i>Planning Board Fees – expert engineering and other consulting services and for required legal advertising and expenses incurred by the Planning Board for review of applications under its Subdivision Control Regulations</i>	Costs and fees advanced by applicants	Planning Board	\$40,000
<i>Recycling – Expenses for recycling cardboard, glass, metals, paper, plastics, etc.</i>	Payments for recycled materials	Board of Health	\$3,000
<i>Recreational Fields – maintenance, equipment and supplies, renovations and/or improvements to any and all Town-owned recreation fields, including related design services</i>	Fees assessed in connection with use of fields	Recreation Fields Committee	\$25,000
<i>Medical Transport Expenses – costs of transportation to medical events for the elderly that supplement services provided by the MART van</i>	Fares	Council on Aging	\$3,500
<i>Newsletter – advertising and printing monthly COA newsletter</i>	Revenue from advertisements	Council on Aging	\$4,000
<i>Conservation Land – costs of oversight and management of conservation land, including forestry</i>	Revenue from forestry undertaken on Town-owned conservation land	Conservation Commission	\$25,000
<i>Council on Aging – Providing Council on Aging programming</i>	All monies, gifts, and fees received and charged for programming to be credited to fund.	Council on Aging Director	\$20,000

Section 7. Procedures and Reports. Except as provided in General Laws Chapter 44, §53E½ and this by-law, all applicable state and local laws and regulations that govern the receipt, custody, expenditure and payment of town funds shall apply to the use of revolving funds established and authorized by this by-law.

(COA Programming Acct established at May 10, 2021 ATM and approved by AG August 4, 2021)

Article XXXIV
Illicit Discharge to the Municipal Storm Drain Systems By Law

1. Purpose and Authority

A. **Introduction.** Increased volumes of stormwater and contaminated stormwater runoff are major causes of:

- i. Impairment of water quality and reduced flow in lakes, ponds, streams, rivers, wetlands, and groundwater;
- ii. Contamination of drinking water supplies;
- iii. Alteration or destruction of aquatic and wildlife habitat; and
- iv. Flooding.

The U.S. Environmental Protection Agency has identified land disturbance and polluted stormwater runoff as major sources of water pollution.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of Town of Shirley's water bodies and groundwater resources and to safeguard the public health, safety, and welfare and the natural resources of the Town.

B. **Purpose.** The purpose of this bylaw is to manage connections and discharges to the Town of Shirley's municipal storm drain system and waters of the Commonwealth.

C. **Objectives.** The objectives of this bylaw are:

- i. To prevent pollutants from entering Shirley's municipal separate storm sewer system (MS4) and waters of the Commonwealth;
- ii. To prohibit illicit connections and unauthorized discharges to the MS4;
- iii. To require the removal of illicit connections;
- iv. To comply with state and federal statutes and regulations relating to stormwater discharges; and
- v. To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

D. **Authority.** This Bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34.

2. Definitions

For the purposes of this bylaw, the following definitions shall apply:

Clean Water Act: The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

Discharge of Pollutants: The addition from any source of any pollutant or combination of pollutants from any source into the municipal storm drain system or into the waters of the United States or Commonwealth.

Enforcement Authority: The Director of Public Works and respective employees or agents, designated to administer, implement, enforce this Bylaw.

Groundwater: All water beneath the surface of the ground.

Hazardous Material or Waste: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Hazardous materials include any synthetic or organic chemical, petroleum product, heavy metals, radioactive or infectious waste, acid and alkali, pathogens and any substance defined as Toxic or Hazardous under Massachusetts General Laws Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

Illicit Connection: Any surface or subsurface drain or conveyance, that allows an illegal discharge into the municipal storm drain system. Illicit connections include conveyances that allow a non-stormwater discharge to the municipal storm drain system including but not limited to: sewage, processed wastewater or wash water and also any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved prior to the effective date of this bylaw.

Illicit Discharge: Any direct or indirect non-stormwater discharge into the municipal storm drain system, not specifically exempted in Section 6. The term excludes a discharge in compliance with an NPDES Storm Water or Surface Water Discharge Permit.

Municipal Separate Storm Sewer System (MS4) or Municipal Storm drain System: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Shirley.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

Non-Stormwater Discharge: Any discharge to the municipal storm drain system not composed entirely of stormwater.

Person: Any individual, partnership, association, firm, company, trust, corporation or other organization, and, any agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

Pollutant: Any constituent part or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants include, but are not limited to:

- A. Preservatives including paints, varnishes and other chemical agents, cleaning agents, disinfectants and solvents;
- B. Oil and other automotive or other vehicular fluids and any fuels irrespective of use;
- C. Non-hazardous liquids, solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform and other pathogens;
- G. Metals: dissolved, in suspension or in particulate form;
- H. Animal wastes;
- I. Rock, sand, salts, soils;
- J. Construction wastes and residues, including but not limited to sediments, slurries, and concrete rinsates;
- K. Noxious or offensive matter of any kind.

Process Wastewater: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

Stormwater: Storm (rain) runoff, snowmelt runoff, and surface water runoff and drainage.

Stormwater Committee: A committee comprised of the Director of Public Works, a representative of the Planning Board, and a resident, with the authority to promulgate rules, regulations and a permitting process to effectuate the purposes of this Bylaw.

Surface Water Discharge Permit: A permit issued by the Department of Environmental Protection pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

Toxic or Hazardous Material or Waste: Any material which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under M.G.L. C. 21C and C. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

Uncontaminated: not containing pollutants.

Wastewater: any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

Watercourse: A natural or man-made channel through which water flows including a river, brook or underground stream.

Waters of the Commonwealth: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

3. Applicability

This bylaw shall apply to flows entering the municipally-owned storm drainage system and waters of the Commonwealth.

4. Regulations

The Stormwater Committee may promulgate rules, regulations and a permitting process to effectuate the purposes of this bylaw. Failure by the Stormwater Committee to promulgate such rules and regulations shall neither suspend nor invalidate this bylaw.

5. Prohibited Activities

A. **Illegal Discharges.** No person shall dump, discharge, cause or allow to be dumped or discharged any pollutant or non-stormwater discharge into the municipal storm drain system, watercourse, or into the waters of the Commonwealth.

B. **Illicit Connections.** No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

C. **Obstruction of Municipal Storm Drain System.** No person shall obstruct or interfere with

the normal flow of stormwater into or out of the municipal storm drain system without prior approval from the designated Enforcement Authority.

6. Exemptions

- A. **Exemption for Fire-Fighting.** This section shall not apply to discharges or flows resulting from fire-fighting activities;
- B. **Exemptions.** This section shall not apply to any of the following non-stormwater discharges or flows provided that the source is not deemed by the Stormwater Committee to be a significant contributor of a pollutant to the municipal storm drain system:
- i. Waterline flushing;
 - ii. Flows from potable water sources;
 - iii. Springs;
 - iv. Natural flows from riparian habitats and wetlands;
 - v. Rising groundwater;
 - vi. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(b)(20), or uncontaminated pumped groundwater;
 - vii. Clean discharge from landscape irrigation or lawn watering;
 - viii. Water from individual residential car washing;
 - ix. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems, such as dewatering excavations for foundation or pipelines), crawl space pumps, or air conditioning condensation;
 - x. Discharges from street sweeper operations of inconsequential amounts of water.;
 - xi. Dye testing, provided verbal notification is given to the designated Enforcement Authority and approval is obtained prior to the time of the test;
 - xii. Non-stormwater discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Massachusetts Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;
 - xiii. Discharges for which advanced written approval is received from the designated Enforcement Authority, if necessary, to protect public health, safety, welfare or the environment.

7. Suspension of Storm Drainage System Access

- A. **Suspension.** The designated Enforcement Authority may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened illegal discharge that presents or may present imminent risk of harm to the public health, safety, welfare or to the environment. If any person fails to comply with an emergency suspension order, the designated Enforcement Authority may take all reasonable steps necessary to prevent or minimize harm to the public health, safety and welfare or to the environment.
- B. **Termination.** Any person discharging to a municipal storm drain system in violation of this bylaw may have access to their municipal storm drain system terminated if such termination would abate or reduce an illicit discharge. The designated Enforcement Authority will notify a violator of the proposed termination of access to the municipal storm drain system. The violator may petition the Planning Board for reconsideration and hearing. An offense is committed if the person reinstates access to the municipal storm drain system from premises terminated pursuant to this section, without prior approval from the designated Enforcement Authority.

8. Notification of Spills

- A. Notwithstanding any other requirements of local, state or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials at that facility or operation that results or may result in illegal discharge of pollutants, that person shall take all steps necessary to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments, DPW Director and Board of Health. In the event of a release of non-hazardous material, said person shall notify the DPW Director no later than the next business day. Written confirmation of all telephone, facsimile or in person notifications shall be provided to the DPW Director within three business days thereafter.
- B. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

9. Enforcement

- A. The Enforcement Authority will enforce this Bylaw, and the regulations promulgated thereunder, as well as the terms and conditions of all permits, notices, and orders, and may pursue all civil and criminal remedies for such violations.

- B. **Civil Relief.** The designated Enforcement Authority may seek injunctive relief in a court of competent jurisdiction to restrain the person that violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder from activities that would create further violations and additionally compelling the person to abate or remediate the violation.
- C. **Compliance Orders.** The designated Enforcement Authority may issue a written order to enforce the provisions of this bylaw or the regulations thereunder, which may include:
- i. Elimination of illicit connections or discharges to the storm drainage system;
 - ii. Termination of access to the storm drainage system;
 - iii. Performance of monitoring, analyses, and reporting;
 - iv. Cessation of unlawful discharges, practices, or operations;
 - v. Remediation of contamination in connection therewith.
- D. **Timeline.** If the designated Enforcement Authority determines that abatement or remediation of contamination is required, the order will set forth a deadline for completion of the abatement or remediation. Said order will further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Shirley may, at its option, undertake such work, and all costs incurred by the Town will be charged to the violator, to be recouped through all available means, including the placement of a lien on the property.

Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the designated Enforcement Authority within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the designated Enforcement Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the Town of Shirley may impose a municipal-charges lien on the property, pursuant to General Laws Chapter 40, Section 58, for the total amount of said costs not paid by the violator or property owner. Interest will begin to accrue on any unpaid costs at the statutory rate after the 31st day at which the costs first become due.

- E. **Criminal and Civil Penalties.** Any person that violates any provision of this bylaw, valid regulation, or the terms or conditions in any permit or order prescribed or issued thereunder, shall be subject to a fine not to exceed \$300.00 for each day such violation occurs or continues or be subject to a civil penalty, that may be assessed in an action brought on behalf of the Town in any court of competent jurisdiction.
- F. **Non-Criminal Disposition.** As an alternative to criminal prosecution or civil action, the Town of Shirley may elect to utilize the non-criminal disposition procedure set forth in

Massachusetts General Laws Chapter 40, §21D. The designated Enforcement Authority, or other designee, shall be the enforcement officer for the non-criminal disposition procedure. The penalty for the 1st violation shall be \$100. The penalty for the 2nd violation shall be \$200. The penalty for the 3rd and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

- G. **Entry to Perform Duties Under this Bylaw.** To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the designated Enforcement Authority, his/her agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the designated Enforcement Authority deems reasonably necessary
- H. **Appeals.** The decisions or orders of the designated Enforcement Authority may be appealed by petition to the Planning Board for a hearing. Said petition must be filed within seven (7) days of the date of notice of violation.
- I. **Remedies Not Exclusive.** The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

10. Severability

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence or clause of this bylaw or the application thereof to any party, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

11. Transitional Provisions

Property owners shall have ninety (90) days from the effective date of this bylaw to comply with its provisions. An extension may be granted provided good cause is shown for the failure to comply with the bylaw during that period.

12. Effective Date

This Bylaw shall take effect upon approval of the Attorney General and upon compliance with the requirements of Massachusetts General Law Chapter 40, Section 32.

(As amended by May 10, 2021 ATM and approved by AG August 4, 2021)

Article XXXV **Nuisance By Law**

Section 1. Authority and Purpose. To help protect the health, safety, and welfare of the people of Shirley by preventing blight, protecting property values and neighborhood integrity, protecting the Town's resources, and ensuring the safety and sanitary maintenance of all buildings and structures. Inadequately maintained buildings are at an increased risk for fire, unlawful entry, or other public health and safety

hazards. This bylaw will help secure the welfare of the Town's residents and neighborhoods by requiring owners of commercial, industrial, and multi-family residence properties in business districts in the Town to properly maintain their respective properties.

Section 2. Definitions

Building - A structure, whether portable or fixed, with exterior walls or firewalls and a roof, built, erected or framed, of a combination of any materials, to form shelter for persons, animals, or property. See "structure" below.

Business District – referring, collectively, to all business districts in the Town of Shirley as defined in the Shirley Zoning By-laws, including the Shirley Village Business District, North Shirley Village District, Great Road-West Mixed-Use District, Mixed Use District, Lancaster Road Commercial District, and Industrial District, and any other business, mixed use, commercial or industrial district that may be created from time to time by amendment of the Zoning By-law.

Dilapidated - A condition of decay or partial ruin by reason of neglect, misuse, or deterioration. The term includes, but is not limited to:

- a. Property having deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken or inadequately secured windows or doors;
- b. Property having defective weather protection (such as paint, stain, siding or tarpaulin) for exterior wall covering; deleterious weathering due to lack of such weather protection or other protective covering.
- c. Personal property that is broken, rusted, worn, partially or wholly dismantled or that, due to deterioration, is unsuitable for the purpose for which designed.

Occupant - A person who occupies real property with the consent of the owner as a lessee, tenant at will, licensee or otherwise.

Owner - Every person who alone or jointly or severally with others:

- a. has legal title to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
- b. has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
- c. is a mortgagee in possession of any such property; or
- d. is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or

- e. is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. Owner also means every person who operates a rooming house.

Person - Any individual, corporation and any voluntary association of individuals, business entity, or organization whether incorporated or not.

Structure - A combination of materials, whether wholly or partially level with, above or below, the surface of the ground, whether permanent or temporary, assembled at a fixed location to give support, shelter or enclosure such as a building, (see above), framework, retaining wall, stand, platform, bin, fence (having a height at any point of six feet or greater above grade), parking area sign, flagpole, or mast for an antenna or the like.

Section 3. Nuisances Prohibited . All properties, whether occupied or vacant, located in a Business District in the Town of Shirley, excluding occupied single family homes, shall be maintained in good repair and in a safe and sanitary condition hazardous or blighted area or to adversely affect the public health and safety or property value of adjacent or surrounding property.

No owner or occupant of any real property in the Business District in the Town of Shirley, whether occupied or vacant, and excluding occupied single family homes, shall create, permit or maintain a condition or activity on their property which constitutes a nuisance by causing substantial or unreasonable interference with the common interest of the general public in the maintenance of decent, safe and sanitary conditions so as to prevent hazardous and blighted conditions. The following is a non-exhaustive list of examples of conditions which may be considered nuisances for purposes of this bylaw:

- a. burned structures not otherwise lawfully habitable or usable;
- b. dilapidated real or personal property;
- c. dangerous or unsafe structures or personal property;
- d. overgrown vegetation which may harbor rats and vermin, conceal pools of stagnant water or other nuisances, or which is otherwise detrimental to neighboring properties or property;
- e. dead, decayed, diseased or hazardous trees, debris or trash that creates a hazard to life or safety;
- f. vehicles, machinery or mechanical equipment or parts thereof that are located on soil, grass or other porous surfaces that may result in the destruction of vegetation or contamination of soil.
- g. personal property which has been placed for collection as rubbish or refuse in violation of any rule or regulation of the Board of Health, or left in public view for more than three (3) days. The exterior storage or accumulation of junk, trash, litter, bottles, cans, rubbish, or refuse of any kind, except for domestic refuse stored in such a manner as not to create a nuisance for a

period not to exceed fifteen (15) days. The term “junk” shall include parts of machinery or motor vehicles, used stoves, refrigerators, or other cast off material of any kind whether or not the same could be put to any reasonable use.

- h. the storage of building materials upon residential properties unless there is in force a valid building permit issued by the building official for construction upon said property and said materials are intended for use in connection with said construction. Building materials shall include but shall not be limited to lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, nails, screws, steel, or any other materials commonly used in constructing any structure.

Section 4. Vacant Buildings. The owner of any real property in the Town of Shirley which contains buildings or structures that are or will be unoccupied for a period of one hundred eighty (180) consecutive days or more shall take the following measures to prevent the creation of nuisance conditions:

- a. comply with all applicable sanitary, building, and fire codes and orders issued pursuant thereto;
- b. secure the premises to prevent unauthorized entry and exposure to the elements;
- c. maintain the premises in a manner that ensures their external/visible maintenance, including but not limited to the maintenance of major systems, the removal of trash and debris, and the upkeep of lawns, shrubbery, and other landscape features;
- d. repair or replace broken windows or doors within thirty (30) days. Boarding up any doors or windows is prohibited except as a temporary measure for no longer than thirty (30) days;
- e. for properties vacant for six months or more, the utilities for which have been shut off, remove or cut and cap such utilities to prevent accidents;
- f. compliance with this section shall not relieve the owner of any applicable obligations set forth in any other codes, regulations, covenant conditions or restrictions, and/or homeowner or condominium association rules and regulations.

Section 5. Enforcement. If the Building Inspector is informed of or has reason to believe that nuisance conditions exist on any real property in the Town, the Building Inspector may make or cause to be made an investigation of the facts, including an inspection of the property where the condition may exist. In making such inspection, the Building Inspector shall have such right of access to premises that may be lawfully exercised under the laws and constitution of the Commonwealth and/or of the United States.

If, after inspection, the Building Inspector confirms the existence of nuisance conditions, the Building Inspector may make such orders deemed necessary to abate

the nuisance. Said orders shall be in writing and shall be served upon all owners and occupants as can be determined after reasonable inquiry.

Any person aggrieved by an order of the Building Inspector, may request a hearing before the Select Board. Said request shall be in writing and received by the Select Board within five (5) business days of issuance of the Building Inspector's order. A copy of the hearing request shall also be delivered to the Building Inspectors, the complainant, if any, and the owners and occupants of any abutting property within three hundred (300) feet of the property line of the subject property. It shall be the responsibility of the person requesting the hearing to show that all interested parties have been notified in writing of the request. If no such request is received within the time specified herein, the order of the Building Inspector shall be final.

A request for hearing shall not constitute a stay of the Building Inspector's order unless the Building Inspector so orders.

Upon receipt of a timely request, the Select Board shall convene a public hearing, which shall include an examination of the any complainant, if any, under oath, to determine whether nuisance conditions exist. Based on the credible evidence and testimony presented at said public hearing, the Select Board may affirm the Building Inspector's order, reverse and nullify the order, or issue any such order as it deems necessary to ensure the protection of public safety and/or eliminate a nuisance. The determination of the Select Board after a hearing shall be final.

Section 6. Enforcement. This Bylaw may be enforced, or violations enjoined, by any means available in law or in equity, including non-criminal disposition pursuant to G.L. c.40, §21D and Chapter XX, Section 3 of the General Bylaws. If enforced through indictment or on complaint to a court of competent jurisdiction, except as may be otherwise provided by law and as the court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars (\$300).

The Building Inspector, the Board of Health or its designee and members of the Shirley Police Department shall be authorized, for purposes of non-criminal disposition, to enforce this bylaw. If enforced pursuant to non-criminal disposition, the following penalties shall apply:

- First Offense – twenty five dollars (\$25.00)
- Second Offense – fifty dollars (\$50.00)
- Third Offense – one hundred dollars (\$100.00)
- Fourth and Further Offenses – three hundred dollars (\$300.00)

Regardless of the method of enforcement, each day or portion thereof that a violation exists shall constitute a separate offense. If more than one violation exists, each condition violated shall constitute a separate offense.

Section 7. Interaction with Other Laws. This bylaw is intended to further the objectives of and to act in concert with any existing federal, state or local laws concerning the

maintenance of property and the abatement of nuisances. Nothing in this bylaw is intended to limit or restrict the authority of the Select Board, the Board of Health, the Building Inspector, Conservation Commission, the Fire Chief, or any other board, commission or officer of the Town to act in accordance with federal, state and local laws within their jurisdiction, including but not limited to:

- a. The authority of the Select Board to abate nuisances in accordance with Massachusetts General Laws, Chapter 139, Section 1;
- b. The authority of the Board of Health to abate nuisances in accordance with Massachusetts General Laws, Chapter 111, Sections 122-125, to enact and enforce local regulations enacted in accordance with Massachusetts General Laws, Chapter 111, Section 31, or to enforce the State Sanitary Code; and
- c. The authority of the Building Inspector to abate nuisances caused by dangerous buildings as set forth in Massachusetts General Laws, Chapter 143, Section 6, or the State Building Code.

Section 8. Administration. The Building Inspector shall file with the Select Board each month a report that shall include all complaints of nuisance made during the prior month; all proceedings begun under this Bylaw; all pending complaints and all investigations and enforcement actions taken or referred to the Board of Health or any other enforcement agency. The report shall state the location of the premises, a summary of the nature of the complaint, the name of the responsible party (ies), and the disposition or the status of the matter.

Section 9. Severability. The invalidity of any section, provision, paragraph, sentence, or clause of this bylaw shall not invalidate any other section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any determination that previously has been issued.

(Added new Bylaw May 10, 2021 ATM and approved by AG August 4, 2021)

(All References to Board of Selectmen changed to Select Board approved by ATM May 10, 2021 and approved by AG August 4, 2021)

Article XIV Map

SHIRLEY CENTER HISTORIC
DISTRICT COMMISSION
Center Town Hall
Shirley Center, Massachusetts 01465

TOWN CLERK,
Shirley, Massachusetts 01461
(Tel: (617)-425-2218)

HISTORIC SITES & STRUCTURES WITHIN HISTORIC DISTRICT.

1. Cemetery.
2. First Parish Church.
3. Town Hall.
4. Holden Residence.
5. Parsonage.
6. & 7. Common.
8. Ayer's Place.
9. Whitney House.
10. Ramsdell House.
11. Whitney Store.
12. Leonard Moody Parker House.
13. Pray House.
14. Benner House.
15. Site of Herman Hazen House.
16. Jenny Little House.
17. Betsy Kelsey House.
18. Johnson-Stout House.
19. Levi Carlisle House.
20. Almy House.
21. Brick School House.
22. Brown House.
23. Brownson-Carey House.
24. James Whitney House.
25. Adams House.
26. Longley Homestead.
27. Meadow Bend.
28. Broom Shop.

NON-HISTORIC STRUCTURES *

SHIRLEY CENTER HISTORIC DISTRICT BOUNDRIES

